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Kevin Stitt, Governor
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Submissions to Governor and Legislature

Within 10 calendar days after adoption by an agency of proposed PERMANENT rules, the agency must submit the rules to the Governor and the Legislature. A "statement" of such submission must subsequently be published by the agency in the *Register*.
For additional information on submissions to the Governor/Legislature, see 75 O.S., Section 303.1 and 308.

TITLE 210. STATE DEPARTMENT OF EDUCATION CHAPTER 10. SCHOOL ADMINISTRATION AND INSTRUCTIONAL SERVICES

[OAR Docket #19-385]

RULEMAKING ACTION:

Submission to Governor and Legislature

RULES:

Subchapter 1. General Provisions

210:10-1-3. Reports and records for attendance, enrollment, and transportation [AMENDED]

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

November 29, 2018

[OAR Docket #19-385; filed 4-30-19]

TITLE 210. STATE DEPARTMENT OF EDUCATION CHAPTER 10. SCHOOL ADMINISTRATION AND INSTRUCTIONAL SERVICES

[OAR Docket #19-386]

RULEMAKING ACTION:

Submission to Governor and Legislature

RULES:

Subchapter 1. General Provisions

210:10-1-22. Guidelines for nontraditional public schools [NEW]

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

April 1, 2019

[OAR Docket #19-386; filed 4-30-19]

TITLE 210. STATE DEPARTMENT OF EDUCATION CHAPTER 10. SCHOOL ADMINISTRATION AND INSTRUCTIONAL SERVICES

[OAR Docket #19-387]

RULEMAKING ACTION:

Submission to Governor and Legislature

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210:10-3-28. Unrecovered funds [REVOKED]

210:10-3-29. Administrative review [REVOKED]

210:10-3-30. Day care homes; sponsoring organizations for day care homes (DCH) agreement [REVOKED]

210:10-3-31. Day care homes; administrative review [REVOKED]

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210:10-3-36. CACFP approval procedures [REVOKED]

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210:10-3-40. Child and Adult Care Food Program (CACFP) general provisions [NEW]

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

March 1, 2019

[OAR Docket #19-387; filed 4-30-19]

TITLE 210. STATE DEPARTMENT OF EDUCATION CHAPTER 10. SCHOOL ADMINISTRATION AND INSTRUCTIONAL SERVICES

[OAR Docket #19-388]

RULEMAKING ACTION:

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210:10-13-4. Test security and validity [AMENDED]

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

January 28, 2019

[OAR Docket #19-388; filed 4-30-19]

**TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 15. CURRICULUM AND INSTRUCTION**

[OAR Docket #19-389]

RULEMAKING ACTION:

Submission to Governor and Legislature

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210:15-13-7. Lindsey Nicole Henry Scholarship for Students with Disabilities Program [AMENDED]

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

January 28, 2019

[OAR Docket #19-389; filed 4-30-19]

**TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 20. STAFF**

[OAR Docket #19-390]

RULEMAKING ACTION:

Submission to Governor and Legislature

RULES:

Subchapter 9. Professional Standards: Teacher Education and Certification
Part 1. General Teaching Certificate Requirements

210:20-9-9. Kinds, types, classes, and processing fees of certificates [AMENDED]

Part 9. Teacher Certification

210:20-9-91. Application for new certificates [AMENDED]

210:20-9-102. Paraprofessional credentials and Career career development program for paraprofessionals [AMENDED]

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

January 28, 2019

[OAR Docket #19-390; filed 4-30-19]

**TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 20. STAFF**

[OAR Docket #19-391]

RULEMAKING ACTION:

Submission to Governor and Legislature

RULES:

Subchapter 1. General Provisions

210:20-1-2. Prohibition on aiding and abetting sexual abuse [NEW]

Subchapter 18. Lead and Master Teachers [NEW]

210:20-18-1. Lead and master teaching certificates [NEW]

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

March 1, 2019

[OAR Docket #19-391; filed 4-30-19]

**TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 35. STANDARDS FOR ACCREDITATION OF ELEMENTARY, MIDDLE LEVEL, SECONDARY, AND CAREER AND TECHNOLOGY SCHOOLS**

[OAR Docket #19-392]

RULEMAKING ACTION:

Submission to Governor and Legislature

RULES:

Subchapter 3. Standards for Elementary, Middle Level, Secondary, and Career and Technology Schools

Part 5. Standard III: Administration and Organization

210:35-3-46. Administrative and supervisory services [AMENDED]

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

November 30, 2018

[OAR Docket #19-392; filed 4-30-19]

**TITLE 210. STATE DEPARTMENT OF EDUCATION
CHAPTER 35. STANDARDS FOR ACCREDITATION OF ELEMENTARY, MIDDLE LEVEL, SECONDARY, AND CAREER AND TECHNOLOGY SCHOOLS**

[OAR Docket #19-393]

RULEMAKING ACTION:

Submission to Governor and Legislature

RULES:

Subchapter 29. Alternative Education Academies, Programs and Schools
210:35-29-8. Requirements for alternative education programs [AMENDED]

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

January 28, 2019

[OAR Docket #19-393; filed 4-30-19]

**TITLE 210. STATE DEPARTMENT OF
EDUCATION
CHAPTER 40. GRANTS AND
PROGRAMS-IN-AID**

[OAR Docket #19-394]

RULEMAKING ACTION:

Submission to Governor and Legislature

RULES:

Subchapter 87. Rules for Payments to Charter Schools
210:40-87-4. Penalty for noncompliance [AMENDED]
210:40-87-6. Charter school insurance and surety bonding [AMENDED]

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

November 29, 2018

[OAR Docket #19-394; filed 4-30-19]

Withdrawn Rules

An agency may withdraw proposed PERMANENT rules prior to "final adoption," as defined in 75 O.S., Section 250.3(5), by notifying the Governor and the Legislature, and by publishing a notice of such a withdrawal in the *Register*.

An agency may withdraw proposed EMERGENCY rules prior to approval/disapproval by the Governor by notifying the Governor, the Legislature, and the Office of Administrative Rules. However, the withdrawal notice is not published in the *Register* unless the agency published a Notice of Rulemaking Intent in the *Register* before adopting the emergency rules.

For additional information on withdrawal of proposed rules, see 75 O.S., Section 308(F) and 253(K) and OAC 655:10-7-33.

**TITLE 325. OKLAHOMA HORSE RACING
COMMISSION
CHAPTER 45. PROHIBITED PRACTICES
AND EQUINE TESTING**

[OAR Docket #19-399]

RULEMAKING ACTION:

Withdrawal of PERMANENT rulemaking

WITHDRAWN RULES:

325:45-1-2 [AMENDED]
325:45-1-6.1 [AMENDED]
325:45-1-6.2 [AMENDED]
325:45-1-19 [AMENDED]

325:45-1-20 [AMENDED]

325:45-1-24 [AMENDED]

325:45-1-27 [AMENDED]

DATES:

Adoption:

February 20, 2019

**SUBMISSION OF ADOPTED RULES TO GOVERNOR
AND LEGISLATURE:**

March 1, 2019

Withdrawn:

May 1, 2019

[OAR Docket #19-399; filed 5-2-19]

Emergency Adoptions

"If an agency finds that a rule is necessary as an emergency measure, the rule may be promulgated" if the Governor approves the rules after determining "that the rule is necessary as an emergency measure to do any of the following:

- a. protect the public health, safety or welfare,
- b. comply with deadlines in amendments to an agency's governing law or federal programs,
- c. avoid violation of federal law or regulation or other state law,
- d. avoid imminent reduction to the agency's budget, or
- e. avoid serious prejudice to the public interest." [75 O.S., Section 253(A)]

An emergency rule is considered promulgated immediately upon approval by the Governor, and effective immediately upon the Governor's approval or a later date specified by the agency in the emergency rule document. An emergency rule expires on September 15 following the next regular legislative session after its promulgation, or on an earlier date specified by the agency, if not already superseded by a permanent rule or terminated through legislative action as described in 75 O.S., Section 253(H)(2).

Emergency rules are not published in the *Oklahoma Administrative Code*; however, a source note entry, which cites to the *Register* publication of the emergency action, is added to the *Code* upon promulgation of a superseding permanent rule or expiration/termination of the emergency action.

For additional information on the emergency rulemaking process, see 75 O.S., Section 253.

TITLE 340. DEPARTMENT OF HUMAN SERVICES CHAPTER 75. CHILD WELFARE SERVICES

[OAR Docket #19-398]

RULEMAKING ACTION: EMERGENCY adoption

RULES:

- Subchapter 3. Child Protective Services
 - Part 1. Purpose, Definitions, and Child Abuse and Neglect Hotline Protocol
 - 340:75-3-120 [AMENDED]
 - Part 3. Child Safety Evaluation Criteria and Procedure
 - 340:75-3-300 [AMENDED]
 - Part 4. Specialized Investigative Protocols, Child Death or Near-Death Reporting Protocols
 - 340:75-3-400 [AMENDED]
 - 340:75-3-450 [AMENDED]
 - Subchapter 6. Permanency Planning
 - Part 1. General Provisions
 - 340:75-6-4 [AMENDED]
 - Part 5. Permanency Planning Services
 - 340:75-6-31.4 [AMENDED]
 - Part 13. Successful Adulthood
 - 340:75-6-110 [AMENDED]
- Subchapter 14. Well-Being [NEW]
 - 340:75-14-2 [NEW]
 - 340:75-14-4 [NEW]
- Subchapter 15. Adoptions
 - Part 14. Post-Adoption Services
 - 340:75-15-128.2 [AMENDED]
- (Reference WF 19-01)**

AUTHORITY:

Director of Human Services; Section 162 of Title 56 of the Oklahoma Statutes (56 O.S. § 162);

Chapter 75 Subchapter 3: 10 O.S. §§ 175.20 and 402; 10A O.S. §§ 1-1-102, 1-1-105, 1-2-101, 1-2-102, 1-2-105, 1-2-109, 1-3-102, 1-4-102, 1-4-201, 1-4-203, 1-4-204, 1-4-205, 1-4-806, and 1-6-105; 21 O.S. §§ 748, 748.2, and 1040.13a; 22 §§ 20 and 60.14; 70 O.S. § 10-106; and 42 U.S.C. § 671.

Chapter 75 Subchapter 6: 10 O.S. §§ 7700-102 and 7700-204; 10A O.S. §§ 1-1-102, 1-1-105, 1-4-101, 1-4-705; 1-4-709 through 1-4-711, 1-9-107; 43 O.S. §§ 118 and 119; 70 O.S. §§ 2601 et seq. and 3230; The Foster Care Independence Act of 1999 enacted as part of Public Law (P.L.) 106-169; Section 475 of the Social Security Act as amended by P.L. 110-351, Fostering Connections to Success and Increasing Adoption Act of 2008; and by the Preventing Sex Trafficking and Strengthening Families Act, P.L. 113-183.

Chapter 75 Subchapter 14: 10A §§ 1-7-105 and 1-9-119.1; and 42 U.S.C. §§ 672 and 675.

Chapter 75 Subchapter 15: 21 O.S. § 692; 18 U.S.C. 16; and 42 § U.S.C. 673.

ADOPTION:

March 13, 2019

APPROVED BY GOVERNOR:

April 9, 2019

EFFECTIVE:

Immediately upon Governor's approval.

EXPIRATION:

Effective through September 14, 2020, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

Emergency rules are proposed to comply with: (1) federal regulations and deadlines to avoid violation of Public Law (P.L.) 115-123, the Family First Prevention Services Act, which amends Title IV-E of the Social Security Act; House Bills (HB) 2552 and 3104 (2018); and Senate Bill (SB) 1005 (2018); and (2) the DHS Pinnacle Plan strategies to move more children to permanency preventing serious prejudice to the public interest.

GIST/ANALYSIS:

The proposed amendments to Chapter 75 Subchapter 3: (1) address changes to federal policy on fetal alcohol syndrome and development of plans of safe care for drug-endangered infants, per HB 3104 (2018); and (2) update guidance on human trafficking and victims, per SB 1005 (2018).

The proposed amendments to Chapter 75 Subchapter 6 amend child permanency planning rules to: (1) update "sibling" definition to comply with federal regulations per HB 3104 (2018); (2) implement Pinnacle Plan strategy to move more children to permanency; and (3) comply with deadlines and requirements of P.L. 115-123, the Family First Prevention Services Act, regarding essential documents for foster youth aging out of care.

The proposed creation of Chapter 75 Subchapter 14 policy is to: (1) memorialize the statement of foster child rights per HB 2552 (2018); and (2) comply with deadlines and requirements of P.L. 115-123, the Family First Prevention Services Act, regarding maintaining a child's placement with a parent receiving substance abuse services at a family-based residential facility.

The proposed amendment to Chapter 75 Subchapter 15 amends eligibility for adoption assistance, per P.L. 115-123, the Family First Prevention Services Act.

CONTACT PERSON:

Dena Thayer at 405-521-4326

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(F):

Emergency Adoptions

SUBCHAPTER 3. CHILD PROTECTIVE SERVICES

PART 1. PURPOSE, DEFINITIONS, AND CHILD ABUSE AND NEGLECT HOTLINE PROTOCOL

340:75-3-120. Definitions and substantiation protocol

(a) **Legislative intent.** Legislative intent, per Section 1-1-102 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-1-102) states, "...it is the purpose of the laws relating to children alleged or found to be deprived to...intervene in the family only when necessary to protect a child from harm or threatened harm."

(b) **Definitions.** Terms used by Oklahoma Department of Human Services (DHS) Child Welfare Services (CWS) not found in the Oklahoma Children's Code are defined in Oklahoma Administrative Code (OAC) 340:75-3-120 Instructions to Staff. The following words and terms, when used in the Oklahoma Children's Code, 10A O.S. §§ 1-1-105, 1-2-105, and 1-6-105; 21 O.S. §§ 748, 748.2; and 1040.13a; and in this Subchapter shall have the following meanings unless the context clearly indicates otherwise:

- (1) **"Abandonment"** means the:
 - (A) willful intent by words, actions, or omissions of the person responsible for the child's (PRFC) health, safety, or welfare not to return for a child;
 - (B) failure to maintain a significant parental relationship with a child through visitation or communication, such as incidental or token visits or communication, which are not considered significant; or
 - (C) failure to respond to notice of deprived proceedings.
- (2) **"Abuse"** means harm or threatened harm by a PRFC to a child's health, safety, or welfare by a PRFC including non-accidental physical or mental injury or sexual abuse or sexual exploitation; however, nothing prohibits a parent from using ordinary force as a means of discipline including, but not limited to, spanking, switching, or paddling.
- (3) **"Age-appropriate"** or **"developmentally-appropriate"** means:
 - (A) activities or items that are generally accepted as suitable for children of the same age or level of maturity or that are determined to be developmentally-appropriate for a child, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and
 - (B) in the case of a specific child, activities or items that are suitable for that child based on the developmental stages attained by the child with respect to the cognitive, emotional, physical, and behavioral capacities of the specific child.
- (4) **"Assessment"** means a comprehensive review of child safety and evaluation of family functioning and protective capacities conducted in response to a child

abuse or neglect referral that does not allege a serious and immediate safety threat to a child.

(5) **"Behavioral health"** means mental health, substance use or abuse, or co-occurring mental health and substance use or abuse diagnoses, and the continuum of mental health, substance use or abuse, or co-occurring mental health and substance use or abuse treatment.

(6) **"Child"** means any unmarried person younger than 18 years of age, including an infant born alive.

(7) **"Children's emergency resource center"** means a community-based program that may provide:

(A) emergency care and a safe and structured, homelike environment or a host home for children providing food, clothing, shelter, and hygiene products to each child served; after-school tutoring; counseling services; life-skills training; transition services; assessments; family reunification; respite care; and transportation to or from school, ~~doctors'~~ appointments with health care professionals, visitations, court, and social or school activities, when necessary;

(B) a stable environment for children in crisis who are in DHS custody, when permitted under DHS policies and regulations; or

(C) who were voluntarily placed by a parent or custodian during a temporary crisis.

(8) **"Child safety meeting"** means the collaborative decision-making process DHS engages in to address each child's needs related to safety and, if when the child's condition warrants a safety intervention including, but not limited to, a change in placement, and:

(A) those involved in the collaborative decision-making process include, at a minimum, appropriate DHS staff, the child's parents, and, when the parent requests, an advocate or representative; and

(B) to protect the safety of those involved and to promote efficiency, DHS may limit participants as determined to be in the child's best interests.

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

(10) **"Commercial sex"** means any form of commercial sexual activity, such as sexually explicit performances, prostitution, participation in the production of pornography, performance in a strip club, or exotic dancing or display, per 21 O.S § 748.

(11) **"Custodian"** means an individual other than a parent, legal guardian, or Indian custodian, to whom legal custody of the child was awarded by the court. As used in the Oklahoma Children's Code, the term "custodian" does not mean DHS.

(12) **"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.

(13) **"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 child's parent, legal guardian, custodian, or other person responsible for the child's health or welfare;
 - (E) who is 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. 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 child's health or safety ~~of a child~~;
 - (F) 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 when 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~~ is necessary when, 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, per 70 O. S. § 10-106, when 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 was born to a parent whose parental rights to another child were involuntarily terminated by the court and the conditions that led to 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 subjected another child to abuse or neglect or allowed another child to be subjected to abuse or neglect and is currently a respondent in a deprived proceeding.
- (14) **"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 dangerous substances or the attempt of any of these acts by a PRFC, per this Section and 10A O.S. § 1-1-105.
- (A) This term includes circumstances wherein the PRFC's substance use or abuse interferes with his or her ability to parent and provide a safe and nurturing environment for the child.

- (B) Per 10A O.S. § 1-2-101, every physician, surgeon, or other health care professional including doctors of medicine, licensed osteopathic physicians, residents and interns, ~~or~~ any other health care professional, ~~attending the birth of a child or midwife~~ involved in the pre-natal care of expectant mothers or the delivery or care of infants who test positive for alcohol or a controlled dangerous substance, must promptly report the matter to the DHS. This includes infants who are diagnosed with neonatal abstinence syndrome or fetal alcohol spectrum disorder.
 - (C) Whenever DHS determines that a child meets the definition of a "drug-endangered child" or was diagnosed with neonatal abstinence syndrome or fetal alcohol spectrum disorder, and the referral is assigned, DHS conducts an investigation of the allegations and does not limit the evaluation of the circumstances to an assessment, per 10A O.S. § 1-2-102.
 - (D) Whenever DHS determines an infant is diagnosed with neonatal abstinence syndrome or fetal alcohol spectrum disorder, DHS develops a plan of safe care that addresses the infant and affected family member or caregiver and, at a minimum, their health and substance use or abuse treatment needs.
- (15) **"Emergency custody"** means court-ordered custody of a child prior to the child's adjudication ~~of the child~~.
- (16) **"Failure to protect"** means failure to take reasonable action to remedy or prevent child abuse or neglect, and includes the conduct of a non-abusing parent or guardian who knows the identity of the abuser or the person neglecting the child, but lies, conceals, or fails to report the child abuse or neglect, or otherwise take reasonable action to end the abuse or neglect.
- (17) **"Foster parent"** means any person maintaining a therapeutic, emergency, specialized-community home, tribal, kinship, or foster family home responsible for providing care, supervision, guidance, rearing, and other foster care services to a child.
- (18) **"Harm or threatened harm"** means any real or threatened physical, mental, or emotional injury or damage to the body or mind of a child that is not accidental including, but not limited to:
- (A) sexual abuse or sexual exploitation;
 - (B) neglect; or
 - (C) dependency.
- (19) **"Heinous and shocking abuse"** means any aggravated physical abuse that results in serious bodily, mental, or emotional injury. Serious bodily injury means, but is not limited to, injury that involves:
- (A) substantial risk of death;
 - (B) extreme physical pain;
 - (C) protracted disfigurement;
 - (D) loss or impairment of a function of a body member, organ, or mental faculty;
 - (E) an injury to an internal or external organ or the body;
 - (F) bone fractures;

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- (G) sexual abuse or sexual exploitation;
- (H) chronic abuse including, but not limited to, physical, emotional, or sexual abuse or sexual exploitation that is repeated or continuing;
- (I) torture including, but 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 perpetrator's or another person's craven, cruel, or prurient desires ~~of the perpetrator or another person;~~ or
- (J) any other similar aggravated circumstance.
- (20) **"Heinous and shocking neglect"** means neglect that 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 child's basic needs ~~that results~~ resulting in harm to the child;
- (B) neglect that 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:
- serious physical or emotional harm;
 - sexual abuse or sexual exploitation;
 - the death or near death of a child or sibling;
- or
- (iv) presents an imminent risk of serious harm to a child; or
- (D) any other similar aggravating circumstance.
- (21) **"Human trafficking"** means modern-day slavery that includes, but is not limited to, extreme exploitation and the denial of freedom or liberty of an individual for purposes of deriving benefit from that individual's commercial sex act or labor.
- (22) **"Human trafficking for commercial sex"** means:
- (A) recruiting, enticing, harboring, maintaining, transporting, providing, or obtaining, by any means, another person through deception, force, fraud, threat, or coercion for purposes of engaging the person in a commercial sex act;
- (B) recruiting, enticing, harboring, maintaining, transporting, providing, purchasing or obtaining, by any means, a minor for purposes of engaging the minor in a commercial sex act; or
- (C) benefiting, financially or by receiving anything of value, from participating in a venture engaged in an act of trafficking for commercial sex.
- (23) **"Infant"** means a child 12 months of age ~~or~~ and younger.
- (24) **"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:
- the current safety of the child and the risk of subsequent abuse or neglect;
 - if child abuse or neglect occurred; and
 - if the family needs prevention_ and intervention-related services.
- (25) **"Minor in need of treatment"** means a child in need of mental health or substance use or abuse treatment as defined by the Inpatient Mental Health and Substance Abuse Treatment of Minors Act.
- (26) **"Multidisciplinary child abuse team"** means any team established, ~~pursuant to Section 1-9-102 of this title~~ per 10A O.S. § 1-9-102 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;
- (27) **"Near death"** means a child is in serious or critical condition as a result of abuse or neglect verified by a physician, registered nurse, or other licensed health care provider. Verification of the medical condition of a child may be given in person or by phone, email, fax, or mail.
- (28) **"Neglect"** means ~~the failure of or omission by the PRFC to:~~
- the failure or omission by the PRFC to provide the child with adequate:
 - adequate nurturance and affection, food, clothing, shelter, sanitation, hygiene, or an appropriate education;
 - medical, dental, or behavioral health care;
 - supervision or appropriate caretakers; or
 - special care made necessary by the child's physical or mental condition; ~~or~~
 - the failure or omission by the PRFC to protect the child from exposure to:
 - the use, abuse, possession, sale, or manufacture of illegal drugs;
 - illegal activities; or
 - sexual acts or materials that are not age-appropriate; or
- (~~iv~~) abandonment.
- (29) **"Person responsible for the child's health, safety, or welfare"** means:
- the child's parent, legal guardian, custodian, or foster parent. ~~Per 10A O.S. § 1-1-105, a~~ A custodian is an individual other than a parent, legal guardian, or Indian custodian to whom legal custody of the child was awarded by the court, per 10A O.S. § 1-1-105;
 - a person 18 years of age and older with whom the child's parent cohabitates or any other adult residing in the child's home of the child;
 - an agent or employee of a public or private residential home, institution, facility, or day-treatment program, per 10 O.S. § 175.20;
 - an owner, operator, or employee of a child care facility program, per 10 O.S. § 402, whether the home is licensed or unlicensed; or
 - a foster parent maintaining a therapeutic, emergency, specialized-community, tribal, kinship, or foster family home responsible for providing care,

supervision, guidance, rearing, and other foster care services to a child.

(30) **"Physical abuse"** means an injury resulting from punching, beating, kicking, biting, burning, or otherwise harming a child. Even though the injury is not an accident, the PRFC may not have intended to hurt the child.

- (A) The injury may result from:
- (i) extreme physical punishment inappropriate to the child's age or condition;
 - (ii) a single episode or repeated episodes that range in severity from significant bruising to death; or
 - (iii) any action including, but not limited to, hitting with a closed fist, kicking, inflicting burns, shaking, or throwing the child, even when no injury is sustained, but the action places the child at risk of grave physical danger.

(B) Minor injury of a child older than 10 years of age is not considered physical abuse unless the actions that caused the injury placed the child in grave physical danger.

(31) **"Plan of safe care"** means a plan developed for an infant with neonatal abstinence syndrome or a fetal alcohol spectrum disorder, upon release from healthcare provider care that addresses the infant's and mother's or caregiver's health and substance use or abuse treatment needs.

(3432) **"Protective custody"** means custody of a child taken by law enforcement or designated employee of the court, without a court order.

(3233) **"Reasonable parental discipline"** means parental use of ordinary force as a means of discipline including, but not limited to, spankings, switching, or paddling that does not result in bodily injury to the child.

(3334) **"Risk"** means the likelihood that an incident of child abuse or neglect will occur in the future.

(3435) **"Risk factors"** means family behaviors and conditions that suggest the caregivers are likely to maltreat their child in the future.

(3536) **"Safety analysis"** means DHS action taken 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 DHS-adopted criteria.

(3637) **"Safety evaluation"** means a DHS evaluation of a child's situation, using a structured, evidence-based tool to determine if the child is subject to safety threats.

(3738) **"Safety threat"** means the threat of serious harm due to child abuse or neglect occurring in the present or in the very near future that without another person's intervention, a child would likely or in all probability sustain severe or permanent disability or injury, illness, or death.

(3839) **"Sexual abuse"** means any sexual activity, including sexual propositioning between the PRFC and child or any acts committed or permitted by the PRFC including, but not limited to:

- (A) rape;
- (B) sodomy;

(C) incest; and

(D) lewd or indecent acts or proposals to a child.

(3940) **"Sexual exploitation"** means:

(A) allowing, permitting, encouraging, or forcing a child to engage in prostitution, as defined by law, by any person 18 years of age or ~~and~~ older or by a PRFC; or

(B) allowing, permitting, or encouraging, or engaging in the lewd, obscene, or pornographic, as defined by law, photographing, filming, or depicting of the child in those acts by a PRFC.

(41) **"Sibling"** means a biologically or legally-related brother or sister of a child. This includes an individual who satisfies at least one of the conditions in (A) and (B) with respect to a child. The individual:

(A) is considered by state law to be a child's sibling; or

(B) would be considered a sibling under state law, except for a termination or other disruption of parental rights, such as a parent(s)' death.

(4042) **"Trafficking in persons"** means sex trafficking or severe forms of trafficking in persons.

(A) "Sex trafficking" means the recruitment, harboring, transportation, provision, ~~or~~ obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act; ~~and~~

(B) "Severe forms of trafficking in persons" means:

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

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

(4443) **"Youth"** means a child 13 through 17 years of age.

(c) **Substantiation of child abuse and neglect allegations.** Specific guidelines in conjunction with the definitions in this Section are utilized in substantiating abuse or neglect.

PART 3. CHILD SAFETY EVALUATION CRITERIA AND PROCEDURE

340:75-3-300. Child safety evaluation

(a) **Evaluating child safety.** Evaluating child safety is a primary child protective services (CPS) function. Safety refers to the child's present security and well-being when the child is assessed to be at risk of abuse or neglect. The safety evaluation is an adaptable and continuous process that is not complete until the child is safe and the case is closed.

(b) **Determining the need for protective or emergency custody.** The Oklahoma Department of Human Services (DHS) evaluates whether to recommend emergency DHS custody of a child based on the seriousness of the child's abuse or

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neglect and if the child is in need of immediate protection due to an imminent safety threat. A child taken into protective custody by law enforcement is not considered in DHS emergency custody ~~upon the child's admission to a shelter~~. A child cannot be placed in DHS emergency custody, per Section 1-4-201 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-4-201) until:

- (1) the court issues a child-specific emergency custody order; or
- (2) DHS completes a safety evaluation, concludes the child faces an imminent safety threat, and the court issues a child-specific emergency custody order.

~~(c)~~ **Protective custody for victims of human trafficking.** Any peace officer or district court, juvenile bureau, or Office of Juvenile Affairs employee, who has reasonable suspicion that a minor may be a victim of human trafficking and is in need of immediate protection, assumes protective custody over the minor and immediately notifies DHS. A child believed to be a victim of human trafficking is not considered in DHS emergency custody solely upon identification, but is transferred to DHS emergency custody, per 10A O.S. § 1-4-201.

~~(ed)~~ **Child Safety Meetingsafety meeting.** A child safety meeting is a collaborative decision-making process conducted to address each child's needs related to safety and ~~determine~~ ~~into~~ ~~determine~~ if the child's condition warrants a safety intervention including, but not limited to, a change in placement, and:

- (1) includes, at a minimum, appropriate ~~Oklahoma Department of Human Services (DHS)~~ staff, the child's parents and, when the parent requests, an advocate or representative, as participants; and
- (2) to protect the safety of those involved and to promote efficiency, DHS may limit participants as determined to be in the child's best interests.

~~(de)~~ **Alternatives to protective or emergency custody in cases of serious abuse or neglect.** When an alternative to protective or emergency custody is determined appropriate in circumstances where serious neglect or abuse is documented, ~~Form 04MP054E, a DHS form for an Immediate Protective Action Plan (IPAP), is completed and implemented when the person responsible for the child's (PRFC) health, safety, or welfare agrees to cooperate with DHS efforts to ensure the child's safety. The IPAP describes the present danger identified by the child welfare (CW) specialist and addresses actions to be taken to ensure the child's safety until a thorough safety evaluation is completed. The PRFC and identified safety monitors sign the IPAP and agree to cooperate with DHS oversight to ensure the child's safety.~~

~~(ef)~~ **Safety planning without court involvement in cases of serious abuse or neglect.** In circumstances where serious neglect or abuse is documented, and upon completion of a thorough safety evaluation, and when an alternative to ~~court involvement~~ DHS custody is appropriate, ~~Form 04MP064E, a DHS form for a Safety Plan,~~ is completed and implemented, when the PRFC agrees to cooperate with DHS efforts to ensure the child's safety. The safety plan is developed and implemented by agreement without court intervention. ~~The safety plan~~ and describes the impending danger identified by the CW specialist and addresses actions to take to control or

eliminate any identified safety threat. The implementation of a short-term safety plan does not preclude DHS from recommending court involvement.

~~(fg)~~ **Removal of a child from the home.** A recommendation to remove a child from the home is made when, upon evaluating relevant conditions, a determination is made that:

- (1) in-home safety responses are not available ~~nor~~ acceptable;
- (2) the parent appears unable or unwilling to protect the child;
- (3) an emergency exists that prohibits the arrangement of timely resources or services to reduce risk and threats of abuse or neglect are unavailable; or
- (4) continued placement in the home is contrary to the child's health, safety, and welfare.

~~(gh)~~ **Placement considerations when the child is removed from the home.** When a child is removed from his or her home, placement preference is given to relatives and persons who have a kinship relationship with the child, per 10A O.S. § 1-4-204.

- (1) Siblings are placed together in the same home when appropriate and possible.
- (2) Placement decisions are made with the child's long-term best interests in mind.

~~(hi)~~ **Restoration of custody to the parent, legal guardian, or custodian when the child is in protective custody.** When the DHS safety evaluation indicates the child does not face an imminent safety threat, DHS restores the child to the custody and control of the parent, legal guardian, or custodian, per 10A O.S. § 1-4-201. Specific county procedures are followed with a request to release the child from protective custody.

~~(ij)~~ **Emergency removal of a child not in DHS custody.**

(1) Reasonable efforts are made to prevent the pre-petition removal of a child from the home unless a documented emergency exists that requires immediate removal. Per 10A O.S. § 1-4-201 and Section 671 of Title 42 of the United States Code (~~42 U.S.C. § 671~~), a child is removed from the home prior to the filing of a petition only when there is reasonable suspicion the:

- (A) child is in need of immediate protection due to an imminent safety threat; or
- (B) child's circumstances or surroundings are such that continuation in the child's home or in the care or custody of the parent, legal guardian, or custodian would present an imminent safety threat to the child and is contrary to his or her welfare.

(2) A child who is in surroundings that pose an immediate threat to the child may be removed from the home by law enforcement without a court order. When law enforcement declines to remove the child or when DHS is responding to a referral without law enforcement involvement and the child is believed to be in need of immediate protection due to an imminent safety threat, DHS prepares ~~Form 04CP008E, Affidavit Child Protective Services, an affidavit~~ to present to the district attorney (DA) to request that the DA consider filing an application with the court to obtain an emergency custody order, per 10A O.S. § 1-4-201.

(jk) DHS authority to execute a pre-petition emergency custody order. Per 10A O.S. § 1-4-201, when the district court issues a pre-petition order placing the child in DHS emergency custody pending further hearing, a DHS employee may execute the emergency order and physically take the child into custody, in limited circumstances, when:

- (1) the child is located in a hospital, school, or child care program; and
- (2) it is believed assumption of custody of the child from the hospital, school, or child care program can occur without risk to the child or the DHS employee.

(kl) Medical care for child in protective custody.

(1) When the child in protective custody is in need of emergency medical care prior to the emergency custody hearing, a peace officer, court employee, or the court may authorize such treatment as necessary to safeguard the child's health or life, when the:

- (A) treatment is related to the suspected abuse or neglect; or
- (B) parent or legal guardian is unavailable or unwilling to consent to physician-recommended treatment. Before a peace officer, court employee, or the court authorizes treatment based on the unavailability of the parent or legal guardian, law enforcement exercises diligence to locate the parent or guardian, when known, per 10A O.S. § 1-3-102.

(2) When law enforcement, the parent, or guardian is unwilling to consent to emergency medical care, the DA is contacted to obtain a court order for the child's treatment.

(km) Notification, disposition, and release of the child in pre-petition emergency custody.

(1) The court may provide for the disposition of the child taken into custody and notification to the court of the assumption of custody in an administrative order or rule issued, per 10A O.S. § 1-4-201. The administrative order or rule may include a process for the child's release prior to an emergency custody hearing. Specific county procedures are followed when the child is released from emergency custody prior to the emergency hearing.

(2) The court may order the child released to the parent, legal guardian, custodian, or to any responsible adult without conditions or under conditions the court finds necessary to ensure the child's safety, health, or welfare.

(kn) Post-petition removal of the child in DHS custody.

DHS may remove the child in DHS custody directly from the child's home when continued placement in the home is contrary to the child's health, safety, or welfare. DHS notifies the court prior to removal, or when an emergency exists, as soon as possible, following the child's removal.

(1) To ensure the safety of the child and the DHS employee, law enforcement assistance is requested in these situations.

(2) Refer to 10A O.S. § 1-4-806 when the child is in trial reunification status.

(ko) Child who left Oklahoma. When the child who is the subject of an emergency custody or a pick-up order, left Oklahoma prior to the order's execution, enforcement of the

emergency custody or pick-up order and recognition of Oklahoma's jurisdiction by the another state must occur to return the child to Oklahoma. Each circumstance is managed according to the laws and procedures in the state where the child is located.

PART 4. SPECIALIZED INVESTIGATIVE PROTOCOLS, CHILD DEATH OR NEAR-DEATH REPORTING PROTOCOLS

340:75-3-400. Reports of child abuse and neglect with specialized protocols

Reports of child abuse and neglect with specialized protocols considered for acceptance for assessment or investigation include, but are not limited to, reports:

- (1) from Child Protective Services (CPS) regarding an Oklahoma Department of Human Services (DHS) employee;
- (2) of abuse or neglect of a child in an active permanency planning or family-centered services (FCS) case;
- (3) regarding a child whose address is confidential per the Address Confidentiality Program (ACP) per Section 60.14 of Title 22 of the Oklahoma Statutes (22 O.S. § 60.14);
- (4) regarding Indian children;
- (5) regarding children in out-of-home care;
- (6) of abuse or neglect in a child care program or home;
- (7) of abuse or neglect by someone other than the person responsible for the child's (PRFC) health, safety, or welfare per 10A O.S. § 1-2-102.

(A) DHS makes a referral, verbally or in writing, to the appropriate law enforcement jurisdiction for the purpose of conducting a possible criminal investigation when, upon receipt of a report alleging abuse or neglect, or during the assessment or investigation, DHS determines the alleged:

- (i) perpetrator is someone other than a PRFC; and
- (ii) abuse or neglect of the child does not appear to be attributable to failure on the part of a PRFC to provide protection for the child.

(B) After making the referral to the appropriate law enforcement jurisdiction, DHS is not responsible for further investigation unless:

- (i) DHS has reason to believe the alleged perpetrator is a parent of another child, not the subject of the criminal investigation, or is a PRFC of another child;
- (ii) notice is received from an appropriate law enforcement jurisdiction that it determined the alleged perpetrator is a parent of, or a PRFC of another child, not the subject of the criminal investigation; or
- (iii) the appropriate law enforcement jurisdiction requests DHS, ~~in writing, to~~ participate in the investigation. When funds and personnel are available, as determined by the DHS Director

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- or designee, DHS may assist law enforcement in interviewing children alleged to be victims of physical or sexual abuse;
- (8) resulting from judicial proceedings.
- (A) When a report of child abuse or neglect resulting from court proceedings concerning child custody or visitation is received, the CPS assessment or investigation protocol and the provisions of 10A O.S. § 1-4-102 are followed. The assessment or investigation is completed within 30-calendar days of the referral date. Upon completion, DHS:
- submits an assessment or investigation report to the district attorney's office;
 - provides a copy of the report to the referring court; and
 - notifies the parties to the proceeding of the report's submission ~~of the report~~ to the court.
- (B) When the evidence in a court proceeding concerning child custody or visitation results in placing the child into DHS emergency custody by the referring court, the provisions of 10A O.S. § 1-4-203 apply.
- (C) Per 22 O.S. § 20, when a judge finds a defendant subject to incarceration is the sole custodian of a minor child and has not made safe and appropriate arrangements for the child's care ~~of the child~~, the court makes a referral to DHS. The report is assigned for assessment or investigation;
- (9) of relinquishment of a child ~~7~~seven-calendar days of age or younger to DHS.
- (A) DHS, without court order, takes possession of a child ~~7~~seven-calendar days of age or younger, when a parent voluntarily delivers and relinquishes a child to the child protective services agency ~~per 10A O.S. § 1-2-109~~, and expresses an intent not to return for the child, per 10A O.S. § 1-2-109. At the parent's request, DHS respects the parent's desire to remain anonymous. DHS may:
- request, but not demand, information the parent is willing to share about the child, including details of the child's and/or parent's relevant medical histories; and
 - provide the parent with printed information regarding the parent's rights with respect to reunification with the child and counseling sources for the parents.
- (B) When a child is relinquished to DHS, DHS:
- performs or provides for the performance of any act necessary to protect the child's health or safety; and
 - immediately checks with the appropriate law enforcement jurisdiction to determine if a child was reported missing and if the missing child is the relinquished child;
- (10) involving child victims of human trafficking. Per 21 O.S. § 748.2, when law enforcement determines a child may be a victim of human trafficking, DHS initiates a joint

investigation with law enforcement ~~and the child is remanded to DHS emergency custody~~. A law enforcement entity, district court, juvenile bureau, or the Office of Juvenile Affairs employee, who has reasonable suspicion that a child may be a victim of human trafficking and is in need of immediate protection assumes protective custody over the child and immediately notifies DHS. The child victim is transferred to DHS emergency custody, per 10A O.S. § 1-4-201; and

(11) involving children of active duty military parent(s) or legal guardian(s), per 10A O.S. § 1-2-102.

(A) DHS inquires, during the course of an assessment or an investigation, if a child's parent or legal guardian is an active duty service member of the military or the spouse of an active duty service member.

(B) DHS notifies the designated federal authorities at the federal military installation where the active duty service member is assigned when DHS receives a report that a child may be abused, neglected, or drug-endangered.

(C) Upon completion of the assessment or the investigation, DHS forwards Form 04KI003E, Report to District Attorney, or Form 04KI030E, Assessment of Child Safety, to the appropriate military law enforcement entity.

340:75-3-450. Drug-endangered child

(a) **Substance abuse considered during safety determination and family intervention strategy.** Addiction to and misuse of alcohol and controlled dangerous substances, including prescription medication may impact the person responsible for the child's (PRFC's) ability to provide child safety. Substance use alone does not directly determine child abuse or neglect; however, it is a factor considered when safety determinations and intervention strategies are considered.

(b) **Investigation instead of assessment conducted when report alleges child is drug-endangered.** Per Section 1-2-102 of Title 10A of the Oklahoma Statutes, when the Oklahoma Department of Human Services (~~OKDHS~~)(DHS) determines a child meets the definition of a "drug-endangered child," as defined in 10A O.S. § 1-1-105, or a child diagnosed with a fetal alcohol ~~syndrome~~spectrum disorder, ~~OKDHS~~DHS conducts an investigation of the allegation and does not limit the evaluation of the circumstances to an assessment.

(c) **Law enforcement assistance required to initiate investigation of child abuse or neglect alleging methamphetamine production ~~or use~~.** The ~~OKDHS~~DHS child abuse or neglect investigation involving allegations of methamphetamine production ~~or use~~ is initiated only with the assistance of law enforcement.

(d) **Records regarding infants born exposed to alcohol or other harmful substances.** Per Section 1-550.3 of Title 63 of the Oklahoma Statutes (63 O.S. § 1-550.3), ~~OKDHS~~DHS maintains up-to-date records of infants born exposed to alcohol or other harmful substances.

(1) "Harmful substances" means an intoxicating liquor or a controlled dangerous substance.

(2) The records detailed in 63 O.S. § 1-550.3 include data necessary for surveys and scientific research and other data that is necessary and proper to further the recognition, prevention, and treatment of infants born addicted to or prenatally exposed to harmful substances.

(3) ~~OKDHS~~DHS compiles and evaluates information received from the reports into a report distributed on or before January 1, of each year to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and such other persons as ~~OKDHS~~DHS deems advisable or necessary.

SUBCHAPTER 6. PERMANENCY PLANNING

PART 1. GENERAL PROVISIONS

340:75-6-4. Definitions

The following words and terms when used in Section 1-1-105 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-1-105) or in this Subchapter have the following meanings unless the context clearly indicates otherwise:

"Age-appropriate" or "developmentally-appropriate" means:

- (A) activities or items that are generally accepted as suitable for children of the same age or level of maturity or that are determined to be developmentally-appropriate for a child, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and
- (B) in the case of a specific child, activities or items that are suitable for that child based on the developmental stages attained by the child with respect to the cognitive, emotional, physical, and behavioral capacities of the specific child.

"Alleged father" means *a man who alleges himself to be, or is alleged to be, the genetic father or a possible genetic father of a child, but whose paternity has not been determined.* The term does not include a presumed father per 10 O.S. § 7700-102.

"Child advocacy center" means an entity that is an associate or full member in good standing with the National Children's Alliance.

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

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

"Kinship relation" means relatives, stepparents, or other responsible adults who have a bond or tie with the child and to whom have been ascribed a family relationship role with the child or the child's parent.

"Multidisciplinary team" means any team of three or more persons involved in the provision of services, treatment,

or both, to a child and the child's family and who meet to assess the progress on the treatment and service plan.

"Permanent guardianship" means a judicially created relationship between a child, a kinship relation of the child, or other adult per 10A O.S. 1-4-709.

"Presumed father" means a man who, by operation of law per 10 O.S. § 7700-204, is recognized as the father of a child until that status is rebutted or confirmed in a judicial proceeding. A man is presumed the father of a child when:

- (A) he and the mother of the child are married to each other and the child is born during the marriage;
- (B) he and the mother of the child were married to each other and the child is born within 300-calendar days after the marriage is terminated by death, annulment, declaration of invalidity, dissolution of marriage, or after decree of separation;
- (C) before the birth of the child, he and the mother of the child married each other in apparent compliance with law, even if the attempted marriage is or could be declared invalid, and the child is born during the invalid marriage or within 300-calendar days after its termination by death, annulment, declaration of invalidity, or after a decree of separation, or dissolution of marriage;
- (D) after the birth of the child, he and the mother of the child married each other in apparent compliance with law, whether the marriage is or could be declared invalid, and he voluntarily asserted his paternity of the child; and:

- (i) the assertion is in a record with the Oklahoma State Department of Health, Division of Vital Records or the Oklahoma Department of Human Services (DHS);
- (ii) he agreed to be and is named as the child's father on the child's birth certificate; or
- (iii) he promised in a record to support the child as his own; or

- (E) for the first two years of the child's life, he resided in the same household with the child and openly held out the child as his own.

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

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

"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

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child would likely or in all probability sustain severe or permanent disability or injury, illness, or death.

"Sibling" means a biologically or legally-related brother or sister of a child. This includes an individual who satisfies at least one of the conditions in (A) or (B) with respect to a child. The individual:

- (A) is considered by state law to be a child's sibling;
or
- (B) would be considered a sibling under state law except for a termination or other disruption of parental rights, such as the parent(s)' death.

"Successful adulthood program" means a program specifically designed to assist a child in ~~Oklahoma Department of Human Services~~ (DHS) custody or tribal custody in developing and enhancing the skills and abilities necessary for successful adult living, per 10A O.S. § 1-9-107.

"Trafficking in persons" means sex trafficking or severe forms of trafficking in persons:

- (A) "sex trafficking" means the recruitment, harboring, transportation, provision, ~~or~~ obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act; and
- (B) "severe forms of trafficking in persons" means:
 - (i) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or
 - (ii) the recruitment, harboring, transportation, provision, ~~or~~ obtaining, patronizing, or soliciting of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

"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.

"Young adult" means a person age 18 through 22 years of age who is eligible to participate in the Successful Adulthood program.

"Youth" means a child 13 through 17 years of age.

PART 5. PERMANENCY PLANNING SERVICES

340:75-6-31.4. Legal guardianship

(a) **Permanent guardianship established pursuant to the Oklahoma Children's Code.** The court may establish a permanent guardianship between a child and a relative or other adult per Sections 1-4-709 and 1-4-710 of Title 10A of the Oklahoma Statutes (10A O.S. §§ 1-4-709 and 1-4-710) when the guardianship is in the child's best interests and when all conditions listed in 10A O.S. § 1-4-709 are substantially satisfied.

- (1) 10A O.S. § 1-4-709 conditions are, the:
 - (A) child was adjudicated a deprived child;
 - (B) parent:
 - (i) consented to the permanent guardianship;
 - (ii) had his or her parental rights terminated;
 - (iii) failed to substantially correct the conditions that led to the adjudication of the child;
 - (iv) was adjudicated as incompetent or incapacitated by a court;
 - (v) abandoned the child;
 - (vi) failed to be identified or was not located despite reasonably diligent efforts to ascertain the parent's whereabouts; or
 - (vii) died;
 - (C) child consents to the permanent guardianship when the court finds the child of sufficient intelligence, understanding, and experience to provide consent;
 - (D) termination of the parent's parental rights is not legally possible, not in the child's best interests, or adoption is not the permanency plan for the child;
 - (E) child and proposed permanent guardian do not require protective supervision or preventive services to ensure the stability of the permanent guardianship;
 - (F) proposed permanent guardian is committed to providing for the child until the child reaches the age of majority and to preparing the child for adulthood and independence;
 - (G) proposed permanent guardian agrees not to return the child to the care of the person from whom the child was removed nor allow visitation without the court's approval; and
 - (H) child resided or was placed with the proposed permanent guardian for at least the six preceding months or the proposed permanent guardian is a relative with whom the child has a relationship.
- (2) When the child is in Oklahoma Department of Human Services (DHS) custody, a study of the proposed permanent guardian's home is completed and a report is provided to the court regarding the proposed permanent guardian's suitability and if permanent guardianship is in the child's best interests and other information as requested by the court. The child welfare (CW) specialist:
 - (A) when the proposed permanent guardian is:
 - (i) a resource parent, updates Form 04AF003E, Resource Family Assessment - Family Profile; or
 - (ii) not an Oklahoma Department of Human Services (DHS) resource parent:
 - (I) completes Form 04PP008E, Title 10A Permanent Guardianship Home Study; and
 - (II) conducts a national criminal history records search in addition to the other background search requirements for each proposed permanent guardian and each adult household member; and

- (B) provides the report to the court as directed by the court, or no later than 14-calendar days prior to the permanent guardianship hearing.
- (3) A permanent guardianship is not permitted when the proposed guardian would be denied placement as a potential foster or adoptive parent per 10A O.S. § 1-4-705(C) or when the proposed guardian is subject to the Oklahoma Sex Offenders Registration Act or living with an individual subject to the Oklahoma Sex Offenders Registration Act.
- (4) A permanent guardian is vested with the rights and responsibilities set forth in Title 30 of the Oklahoma Statutes relating to the powers and duties of a guardian of a minor, other than those rights and responsibilities retained by the child's parent, when any, are set forth in the decree of permanent guardianship.
- (b) **Filing the 10A permanent guardianship motion.** The district attorney or child's attorney is responsible for filing a motion for permanent guardianship with the juvenile court in the deprived case and the proposed guardian signs the verification of the information contained in the motion for permanent guardianship per 10A O.S. § 1-4-710.
- (c) **Filing the Title 30 guardianship proceeding.** ~~The court must authorize a Title 30 guardianship to be filed following a determination by the court that a return home or adoption is not an appropriate permanency option for the child.~~ When it is necessary that a Title 30 guardianship be filed in order for the child to achieve the permanency plan of guardianship, the proposed guardian has the responsibility to obtain an attorney for this purpose. Per 10A O.S. § 1-4-101, the written consent of the judge presiding over the deprived case must be obtained and filed in the Title 30 guardianship case, prior to the guardian being appointed for the child. ~~Limited monetary reimbursement for attorney fees and costs is available when the attorney represents a proposed relative guardian in a Title 30 guardianship proceeding.~~
- (d) **Types of guardianship assistance funding available.** Guardianship assistance for a Title 10A or Title 30 guardianship may be funded through the:
- (1) Temporary Assistance for Needy Families (TANF) Supported Permanency Program;
 - (2) Title IV-E Subsidized Guardianship Program; or
 - (3) state.
- (e) **Requirements for guardianship without benefits.** A guardianship may be established without accessing a benefit funding source when the:
- (1) guardianship is in the child's best interests; and
 - (2) conditions listed in 10A O.S. § 1-4-709 are substantially satisfied for a Title 10A guardianship or the court authorized a Title 30 guardianship be filed when the court determined a return home or adoption is not an appropriate permanency option for the child.
- (f) **Requirements for guardianship with TANF Supported Permanency Program benefits.**
- (1) A guardianship may be established with TANF Supported Permanency Program benefits subject to the availability of funds and DHS approval when the:
 - (A) guardianship is in the child's best interests;

- (B) conditions listed in 10A O.S. § 1-4-709 are substantially satisfied for a Title 10A guardianship or a return home or adoption is not an appropriate permanency option for the child when a Title 30 guardianship was authorized by the court;
- (C) child in DHS custody is placed in a paid kinship foster home with a relative who resides in Oklahoma and the relative meets the specified degree of relationship as defined by the TANF program, per Oklahoma Administrative Code (OAC) 340:10-9-1(a);
- (D) child is 12 years of age ~~or and~~ older or has a sibling 12 years of age ~~or and~~ older who resides in the same relative foster home. The deputy director for programs may, for good cause, approve supported permanency for a child ~~8 years of age through 14~~ younger than 12 years of years of age and his or her sibling when the child has no older, eligible sibling;
- (E) court ~~makes a finding that termination of the parent's rights is either not legally possible or not in the child's best interests or adoption~~ finds that guardianship is not the permanency plan for the child;
- (F) relative meets requirements for approval as a DHS foster home;
- (G) child is currently residing with the relative in Oklahoma and has for four of the previous six months;
- (H) relative is willing to assume legal responsibility for the child; and
- (I) court and, when appropriate, the child are in agreement with the plan for the relative to obtain legal responsibility for the child.
- (2) TANF Supported Permanency Program assistance includes:
- (A) ~~a limited monetary reimbursement to an attorney representing a proposed relative guardian for the legal fees and costs incurred in the transfer of legal responsibility for the child from DHS to the relative;~~
 - (~~B~~) a monthly payment standard for the child, per DHS Appendix C-1, Maximum Income, Resource, and Payment Standards, Schedule XVII;
 - (~~C~~) a Medicaid card for the child's medical care; and
 - (~~D~~) an assigned Adult and Family Services worker who provides referrals for services, when needed.
- (g) **Requirements for Title IV-E Subsidized Guardianship benefits.**
- (1) A guardianship may be eligible for Title IV-E guardianship assistance when:
 - (A) the guardianship is in the child's best interests;
 - (B) all conditions listed in 10A O.S. § 1-4-709 are substantially satisfied for a Title 10A guardianship or a return home or adoption is not an appropriate permanency option for the child when a Title 30 guardianship was authorized by the court;
 - (C) the child meets eligibility for Title IV-E kinship guardianship assistance payments per Section 473(d)(3)(A) of Title IV-E of the Social Security Act (42 U.S.C. § 673(d)(3)(A)). The relative may reside

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- in or out-of-state but must meet the specified relationship per OAC 340:75-7-24;
- (D) the child was removed from his or her home pursuant to a voluntary placement agreement or as a result of a judicial determination that continuation in the home is contrary to the child's welfare and the child is Title IV-E eligible, per OAC 340:75-13-13 for at least six consecutive months;
- (E) the child is a sibling to a child eligible for, or receiving Title IV-E kinship guardianship assistance, and is residing or planning to reside in the same placement;
- (F) the child is 12 years of age ~~or~~ and older or has a sibling 12 years of age ~~or~~ and older who resides in the same relative foster home. The deputy director may, for good cause, approve Title IV-E kinship guardianship assistance ~~payments~~ for a child ~~82~~ years of age and older by the end of the fiscal year the guardianship was entered into through 11 years of years of age and his or her sibling when the child has no older, eligible sibling;
- (G) ~~termination of the parent's rights is either not legally possible or not in the child's best interests or adoption guardianship is not~~ the permanency plan for the child;
- (H) the relative completed requirements to be a DHS-approved or tribal foster home;
- (I) the child is currently residing with the relative and has for six consecutive months;
- (J) the relative is willing to assume legal responsibility for the child and has a strong commitment to permanently care for the child;
- (K) the child who is 14 years of age ~~or~~ and older was consulted regarding the kinship guardianship arrangement;
- (L) the child demonstrates a strong attachment to the proposed relative guardian; and
- (M) Form 04MP049E, Title IV-E Subsidized Guardianship Agreement, is signed prior to the transfer of legal responsibility by DHS and the proposed relative guardian, outlining the assistance provided to the relative guardian.
- (2) The Title IV-E Subsidized Guardianship agreement outlines the assistance provided to the relative that includes:
- (A) a limited monetary reimbursement to an attorney representing the proposed relative guardian when a Title 30 instead of a Title 10A guardianship is filed for legal fees and costs incurred in the transfer of legal responsibility of the child to the relative;
- (B) a monthly payment standard for the child, per DHS Appendix C-20, Child Welfare Services Rates Schedule;
- (C) the manner in which the payment may be adjusted periodically, in consultation with the relative guardian, based on the circumstances of the relative guardian and the child's needs;
- (D) a Medicaid card for the child;
- (E) a right to a fair hearing, per OAC 340:75-1-12.6;
- (F) the additional services and assistance for which the child and relative guardian are eligible under the agreement;
- (G) the procedure by which the relative guardian applies for additional services; and
- (H) assurance the agreement will remain in effect if the relative guardian moves to another state.
- (3) The child's case plan describes:
- (A) how the child meets the eligibility requirements;
- (B) the steps DHS took to determine that a return to the home or adoption is not appropriate and termination of the parent's rights is either not legally possible or not in the child's best interests;
- (C) the efforts DHS made to discuss adoption with the child's relative foster parent and the reasons why adoption by the relative foster parent is not an option;
- (D) the reason a permanent placement with a proposed relative guardian and receipt of a guardianship assistance payment is in the child's best interests;
- (E) the DHS efforts to discuss with the child's parent the kinship guardianship assistance arrangements or why efforts were not made; and
- (F) when the child's placement with the proposed relative guardian does not include siblings, a description of the reasons the child is separated from siblings during placement.
- (h) **Successor guardian and eligibility for Title IV-E guardianship assistance.** ~~Per 42 U.S.C. § 673(d)(3)(C), in~~ Per 42 U.S.C. § 673(d)(3)(C), in the event of the relative guardian's death or incapacity ~~of the relative guardian, the child's~~ eligibility of a child for a kinship guardianship assistance payment under this subsection is not affected by reason of the replacement of the relative guardian with a successor legal guardian named in the Title IV-E kinship guardianship assistance agreement, per 42 U.S.C. § 673(d)(3)(C).
- (i) **Requirements for a guardianship with state-funded benefits.**
- (1) A guardianship may be established with state-funded assistance, when:
- (A) the guardianship is in the child's best interests;
- (B) all conditions listed in 10A O.S. § 1-4-709 are substantially satisfied for a Title 10A guardianship or a return home or adoption is not an appropriate permanency option for the child when a Title 30 guardianship was authorized by the court;
- (C) the child is not eligible for TANF Supported Permanency Program or Title IV-E Subsidized Guardianship; and
- (D) the deputy director for programs, for good cause, approves state-funded payments to the guardian for the benefit of the child.
- (2) The state-funded benefit is a monthly payment standard for the child, per DHS Appendix C-20, Child Welfare Services Rates Schedule.

(j) **Court-ordered provisions within permanent guardianship providing for child's safety and well-being.** Per 10A O.S. § 1-4-710, the court, upon finding grounds exist for a permanent guardianship, may order visitation with the parent, siblings, or other relatives of the child when contact is in the child's best interests, and any other provision necessary to provide for the child's continuing safety and well-being.

(k) **Child support ordered with permanent guardianship.** Per 10A O.S. § 1-4-710, the court orders the parent to contribute to the support of the child pursuant to child support guidelines, per 43 O.S. §§ 118 and 119.

(l) **Permanent guardianship placement not supervised by DHS.** Per 10A O.S. § 1-4-710, the order appointing a permanent guardian does not require DHS supervision of the placement.

(m) **Permanent guardianship placement review period.** Per 10A O.S. § 1-4-710, the permanent guardianship order:

- (1) requires the placement be reviewed within one year after transfer;
- (2) requires the permanent guardian to submit records or reports the court deems necessary for the one year review;
- (3) divests DHS of legal custody and supervision of the child with no further responsibility for the child's custody or supervision; and
- (4) does not require periodic reviews by the court after the one year review when the parties and court agree the reviews are not necessary to serve the child's best interests, unless periodic reviews are otherwise required by the court.

(n) **Child returned to DHS custody when permanent guardianship terminated.** When a permanent guardianship, established pursuant to the Oklahoma Children's Code, is terminated due to the guardian's abuse or neglect of the child, death, or inability to care for the child, the court must order the child returned to DHS legal custody pending further hearing.

- (1) DHS develops a new permanency plan for the child to present to the court within 30-calendar days from the permanent guardianship termination date.
- (2) Unless parental rights were terminated, the child's parent is notified and is entitled to participate in the upcoming permanency planning hearing.
- (3) The court may order that reunification services again be provided to each parent or consider each parent for custody of the child with DHS supervision when the parent can prove conditions previously existing at the time the permanent guardianship was granted were substantially corrected and reunification is the best alternative for, and in the child's best interests.

PART 13. SUCCESSFUL ADULTHOOD

340:75-6-110. Oklahoma Successful Adulthood (OKSA) program

(a) **OKSA program eligibility.** The OKSA program serves:

(1) youth 14 through 17 years of age who are in an out-of-home placement; and in:

- (A) Oklahoma Department of Human Services (DHS) legal custody; or
- (B) the custody of a federally recognized Indian tribe;

(2) young adults 18, 19, and 20 years of age, who:

- (A) were in an out-of-home placement while in DHS or tribal custody on his or her 18th birthday; or
- (B) entered a guardianship or adoption ~~after 14 at~~ 16 years of age and older to achieve permanency and who have not yet reached his or her 21st birthday; and

(3) young adults 21 ~~and 22 to 26~~ years of age who ~~on his or her 21st birthday were participating~~ participate for no more than five years in the Education and Training Voucher Program.

(b) **Legal authority for OKSA services.** Laws that guide OKSA services administered by DHS are described in (1) and (2) of this subsection.

(1) **Federal successful adulthood law.** The Foster Care Independence Act of 1999 enacted as part of Public Law (P.L.) 106-169; Section 475 of the Social Security Act as amended by P.L. 110-351, Fostering Connections to Success and Increasing Adoption Act of 2008; ~~and~~ by the Preventing Sex Trafficking and Strengthening Families Act, P.L. 113-183; and the Family First Prevention Services Act, P.L. 115-123:

(A) supports states in the delivery of successful adulthood services to eligible youth and provides them with services that focus on:

- (i) education;
- (ii) career planning;
- (iii) life skills; and
- (iv) aftercare services; and

(B) requires successful adulthood services:

- (i) complement the youth's own efforts to achieve self-sufficiency; and
- (ii) program participants recognize and accept personal responsibility for the transition from out-of-home care to adulthood.

(2) **State successful adulthood law.** Section 1-9-107 of the Oklahoma Statutes (10A O.S. §1-9-107) created the "Successful Adulthood Act," the purpose of which is to ensure eligible youth who, due to abuse or neglect, ~~have been were~~ or are in the DHS foster care program or a federally-recognized Indian tribe with whom DHS has a contract or agreement, receive the protection and support necessary to allow ~~youth them~~ to become self-reliant and productive citizens through the provision of requisite services that include, but are not limited to:

- (A) transitional planning;
- (B) housing;
- (C) medical coverage;
- (D) education; and
- (E) tuition waivers, when eligible, per 70 O.S. § 3230.

(c) **OKSA service provision.** OKSA services for youth:

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- (1) are initiated by the child welfare (CW) specialist according to the youth's age, as outlined in DHS Publication No. 94-08, Oklahoma Successful Adulthood Program;
 - (2) in DHS custody placed in other states, are the responsibility of DHS, per Oklahoma Administrative Code (OAC) 340:75-1-86;
 - (3) placed in Oklahoma through the Interstate Compact for the Placement of Children (ICPC) are approved by OKSA Program staff on a case-by-case basis, per OAC 340:75-1-86; and
 - (4) are initiated by the legal guardian or adoptive parent for youth who exited care ~~after 14~~ at 16 years of age and older to permanent guardianship or adoption.
- (d) **Requirements.** Eligible youth are provided each of the items listed in (1) through (6).
- (1) **Successful adulthood case assessment.** The successful adulthood case assessment is a comprehensive evaluation of the youth's readiness for successful adulthood and identification of the services and supports required for ~~the youth~~ him or her to achieve a maximum level of self-sufficiency.
 - (2) **Successful adulthood plan.**
 - (A) The permanency plan for the youth transitioning to a successful adulthood is developed in consultation with the youth and, at ~~the~~ his or her option ~~of the youth~~, with up to two members of the permanency planning team to be chosen by the youth, not including the foster parent and the youth his or her caseworker, subject to:
 - (i) the youth's selection of one person that may be designated to be the advisor and youth's his or her advocate, with respect to the application of the reasonable and prudent parent standard to the youth; and
 - (ii) DHS rejecting a person selected by the youth to be a member of the permanency planning team at any time when DHS has good cause to believe the selected person would not act in the youth's best interests.
 - (B) The successful adulthood plan describes the services, supports, and activities the CW specialist, the permanency planning team, and youth identify as necessary for the youth to transition to successful adulthood, and includes the components required by federal and state statutes. The successful adulthood plan is continually reviewed and updated.
 - (C) During the 90-calendar day period immediately prior to a youth's 18th birthday, DHS and, as appropriate, the youth's representatives, provide the youth with assistance and support in developing an appropriate personalized transition plan based upon ~~the youth~~ his or her input, and as detailed as ~~the youth~~ he or she elects, including specific options regarding:
 - (i) housing;
 - (ii) health insurance;
 - (iii) education;
 - (iv) local opportunities for mentors and continuing support services; and
 - (v) employment supports and services.
 - (3) **Notice of rights.**
 - (A) Per 10A O.S. § 1-9-107, each child in DHS foster care or a federally-recognized Indian tribe and in an out-of-home placement who reaches 14 years of age is given a notice of foster youth rights, ~~Form 04IL011E, Rights of Foster Youth~~, describing ~~the youth's rights~~ this or her rights to:
 - (i) education, health, visitation, and court participation;
 - (ii) provision of documents specified in (4) of this subsection; and
 - (iii) stay safe and avoid exploitation.
 - (B) The youth signs an acknowledgment stating ~~the youth~~ he or she was provided a copy of ~~Form 04IL011E~~ the notice of foster youth rights and that the rights ~~described~~ were explained to ~~the youth~~ in an age-appropriate way.
 - (4) **Essential documents.** Per 10A O.S. § 1-9-107, a youth about to leave foster care at 18 years of age and was in foster care for at least six months is given:
 - (A) an official or certified copy of his or her United States birth certificate;
 - (B) a Social Security Administration Social Security card ~~issued by the Social Security Administration~~;
 - (C) his or her health insurance information;
 - (D) a copy of his or her medical records; ~~and~~
 - (E) a state-issued driver license or identification card; and
 - (F) official documentation necessary to prove the youth was previously in foster care.
 - (5) **Judicial oversight.** A judicial determination is made:
 - (A) at each dispositional and review hearing involving a youth 14 years of age ~~or~~ and older, whether the OKSA services needed to assist the youth in making the transition from out-of-home care to successful adulthood are being provided, not provided, or are not appropriate;
 - (B) confirming that information was provided to the youth about the importance of designating another individual to make health care treatment decisions on ~~the youth's~~ his or her behalf when ~~the youth~~ he or she:
 - (i) becomes unable to participate in his or her health care decisions; and
 - (ii) does not have, or does not want a relative, who would otherwise be authorized under state or tribal law, to make health care decisions for the youth; and
 - (C) that the youth was provided with the option of executing a health care power of attorney, health care proxy, or other similar documents recognized under state or tribal law.
 - (6) **OKSA support services.** A variety of services, resources, and funds are provided to facilitate successful

transition into adulthood and each has distinct eligibility requirements.

(A) Youth 14 through 15 years of age.

(i) **Youth development funds.** OKSA youth development funds are obtained through community-contracted providers and are designed to support the youth's successful adulthood case plan in preparation for living independently.

(ii) **Incentive payments.** The OKSA incentive payment is a category of youth development funds that allows for monetary payments to youth for survey and application completions and for accomplishments prior to exiting DHS or tribal custody.

(iii) **Teen panels.** Teen panels provide an opportunity for DHS and tribal custody youth to educate staff, care providers, the community, and potential resource parents by presenting the youth's views and experiences in the CW system.

(B) Youth 16 years of age and older.

(i) **Community contracted services.** Contracts support the OKSA program activities and serve youth who are OKSA eligible.

(ii) **Youth development funds.** OKSA youth development funds are obtained through community contracted providers and are designed:

(I) to support the youth's successful adulthood case plan in preparation for living independently; and

(II) for emergencies the youth encounters after leaving out-of-home care while learning to live independently.

(iii) **Incentive payments.** The OKSA incentive payment is a category of youth development funds that allows for monetary payments to youth for survey and application completions and for accomplishments prior to exiting DHS or tribal custody.

(iv) **Educational opportunities and scholarships.** Scholarships and OKSA services are available to assist the youth complete his or her education and training.

(v) **Youth and Adult Advisory Board.** The Youth and Adult Advisory Board includes current and former DHS and tribal custody youth, OKSA Program staff, and adult advisors. The board provides the youth an opportunity to work together with other interested youth and adults to:

(I) educate the community regarding issues related to youth in out-of-home placement;

(II) improve the CW system through problem solving;

(III) promote successful adulthood through training; and

(IV) bridge the gap between youth and adults.

(vi) **Teen panels.** Teen panels provide an opportunity for DHS and tribal custody youth to

educate staff, care providers, the community, and potential resource parents by presenting youth views and experiences in the CW system.

(vii) **Voluntary placement of youth after 18 years of age.** Custody youth may request placement in a DHS-paid placement and services from DHS on a voluntary basis, or in special circumstances, a short-term voluntary placement while 18, 19, or 20 years of age, when the youth:

(I) reaches 18 years of age prior to completing his or her General Educational Development (GED) or high school education;

(II) did not obtain a GED or high school education and left an out-of-home placement after reaching 18 years of age; or

(III) has specified reasons approved by the district director for the county where the youth resides.

(viii) **Credit reports for youth in out-of-home care.** Each youth beginning at 14 years of age and continuing until the youth is discharged from out-of-home care receives:

(I) an annual consumer credit report;

(II) assistance interpreting the report; and

(III) assistance resolving any inaccuracies or evidence of identity theft in the report. The court with jurisdiction over the youth is notified of any inaccuracies, evidence of identity theft, or other fraudulent activity.

SUBCHAPTER 14. WELL-BEING

340:75-14-2. Rights of a child served by the Oklahoma Department of Human Services (DHS)

(a) Rights. Child Welfare Services (CWS) makes reasonable, good-faith efforts to provide the rights in (1) through (5) for a child in DHS custody, when doing so is in the child's best interest, per Section 1-9-119.1 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-9-119.1).

(1) Placement. A child deserves to:

(A) remain in the custody of his or her parent(s) or legal custodian unless and until there is a determination in accordance with state law that removal is appropriate;

(B) be placed in accordance with state law, when circumstances permit and, in (i) through (iv) order of preference, with an approved:

(i) relative;

(ii) kinship placement;

(iii) resource family who previously cared for the child; and

(iv) resource family;

(C) be placed in the nearest geographic proximity to his or her home as possible;

(D) be placed with the child's sibling(s), when the sibling(s) is also placed outside of his or her home, when appropriate;

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- (E) be placed with a child of his or her own, when appropriate;
 - (F) be placed with an approved resource family that can and is willing to accommodate the child's communication needs, when possible;
 - (G) be provided with both information about a resource family or program and, when circumstances permit, an opportunity to meet the resource parent or program staff before placement occurs;
 - (H) be provided an age-appropriate explanation why he or she is in foster care and what is happening to him or her and to his or her family, including a sibling(s), when possible;
 - (I) continue in the same school or educational placement with minimal disruption in order to receive an education that fits his or her age and individual needs;
 - (J) be treated with dignity during placement changes.
 - (i) Except when a change in placement is due to an emergency, a child and the child's attorney are given five-judicial days' notice before a change in placement.
 - (ii) Prior to any placement change, the impacted child is consulted when appropriate and advised in an age-appropriate manner of the circumstances and the reason for the placement change. The child's input concerning the placement change is considered, taking the child's age and developmental level into account; and
 - (K) receive reasonable equipment and assistance to transport personal possessions during placement changes.
- (2) **Safety.** Efforts are made to ensure a child in DHS custody:
- (A) lives in a safe, healthy, and comfortable home;
 - (B) has adequate and appropriate clothing;
 - (C) receives individualized medical, dental, vision, behavioral health, and other required services by a continuity of providers, when reasonably possible;
 - (D) is free of unnecessary or excessive medication; and
 - (E) can report a potential violation of personal rights without fear of punishment, interference, coercion, or other retaliation.
- (3) **Privacy.** A child deserves:
- (A) to have an age-appropriate expectation of privacy in accordance with existing law as to his or her person, property, and communications;
 - (B) to freely exercise his or her own religious beliefs, including the refusal to attend any religious activities and services; and
 - (C) confidentiality of all of his or her juvenile court records consistent with existing law.
- (4) **Communications.** A child deserves:
- (A) written visitation plans with a parent(s) and sibling(s), per 10A O.S. § 1-7-105;
 - (B) to begin visitation with a parent(s) and sibling(s) in accordance with existing law;
 - (C) to have safe and reasonable communications with his or her parent(s), sibling(s), extended family and friends, when appropriate;
 - (D) regular and meaningful access his or her attorney, guardian, and/or court-appointed special advocate;
 - (E) to communicate, in private when necessary, with any court and the judge with personal jurisdiction of his or her case. This includes informing the court of inadequate representation provided by any attorney or other individual tasked with advocating on his or her behalf;
 - (F) the opportunity to engage in regular, meaningful, and private communication with his or her assigned child welfare (CW) specialist;
 - (G) to participate, in a manner consistent with his or her age and developmental level in the development of, and any revision to, the service plan;
 - (H) to be presented with the service plan for his or her review and signature, when appropriate;
 - (I) to be notified of, attend, and have the opportunity to be heard in court hearings relating to his or her case and in family meetings, when appropriate; and
 - (J) to have, in accordance with existing law, all of his or her records available for review by his or her attorney and court-appointed special advocate when such review is necessary.
- (5) **Personal growth.** A child deserves:
- (A) to have fair and equal access to all available services, placements, care, treatments and benefits, and to not be subjected to discrimination or harassment, as ensured by existing law;
 - (B) to engage in reasonable, age-appropriate day-to-day activities, including extracurricular, enrichment and social activities, consistent with the most family-like environment;
 - (C) to receive independent living and support services and, unless circumstances or existing law requires a document be obtained sooner, be provided identification and permanent documents, including, but not limited to, his or her birth certificate, Social Security card, and health records by 18 years of age, to the extent allowed by federal and state law;
 - (D) the opportunity to work and develop job skills at an age-appropriate level that is consistent with state law; and
 - (E) to manage or have managed his or her personal earnings and financial resources in a manner consistent with his or her age and developmental level.
- (b) **Balancing rights.** One or more of the rights in subsection (a) may conflict; therefore, a balanced approach to protect these rights takes into account both the child's unique circumstances and what is in the child's best interest.
- (c) **Rights notification.** A statement of these rights is provided to:

- (1) each child upon entering foster care and at annually thereafter; and
- (2) any foster parent once a child in DHS custody enters the foster parent's home and annually thereafter.
- (d) **Questions or complaints.** A child in DHS custody is encouraged to talk to the assigned CW specialist and/or the foster parent(s) when he or she has questions or wants to talk to someone about his or her rights. When talking with the CW specialist or foster parent(s) is not helpful or the child is uncomfortable, a youth advocate may be contacted at OK Foster Youth Matters at 1-800-522-8014, or a complaint may be filed at www.okfosteryouthmatters.org.
- (e) **Grievance.**
 - (1) A child in DHS custody has the right to file a grievance about the foster care services provided or received, without fear of reprisal or discrimination. The grievance is filed with the Office of Client Advocacy (OCA).
 - (2) After exhausting the remedies available through the OCA grievance process, a child in DHS custody may request intervention from the district court with jurisdiction over his or her case to obtain relief.

340:75-14-4. Child placed with a parent in a licensed residential family-based treatment facility

Per Section 472 of the Social Security Act (42 U.S.C. § 672) as amended by the Family First Prevention Services Act, a child in the custody of the Oklahoma Department of Human Services (DHS) is eligible for foster care maintenance payments (FCMP) when placed with a parent receiving services through a residential family-based treatment facility for substance use or abuse. The Oklahoma Department of Mental Health and Substance Abuse Services (ODMHSAS) administers the program for such facilities.

- (1) **FCMP-eligible substance use or abuse facility.**
 - (A) The facility must meet all ODMHSAS established licensing requirements.
 - (B) The treatment facility must provide parenting skills, parent education, and individual and family therapy in addition to the substance use or abuse treatment.
 - (C) All treatments are provided under an organizational structure and treatment framework that involves understanding, recognizing, and responding to the effects of all types of trauma and, per recognized principles of trauma-informed approach and trauma-specific interventions, to address the consequences of trauma and facilitate healing.
- (2) **FCMP-eligible child placed in residential family-based treatment facility.** For a child placed with a parent receiving substance use or abuse treatment in a residential family-based treatment facility, the child:
 - (A) is required to meet all foster care eligibility criteria in Title IV-E of the Social Security Act, except for Aid to Families with Dependent Children (AFDC);

- (B) must have a recommendation for placement with a parent in a residential family-based treatment facility for substance use or abuse documented in his or her case plan; and
- (C) only receives FCMP for 12-months or less.
- (3) **Costs eligible for FCMP reimbursement.** Eligible costs for FCMP reimbursements, per 42 U.S.C. § 675
- (4)(A) include, but are not limited to:
 - (A) food;
 - (B) clothing;
 - (C) shelter;
 - (D) daily supervision;
 - (E) personal incidentals; and
 - (F) reasonable travel for a child to remain in his or her school of origin.
- (4) **Costs exempt from FCMP reimbursement.** The costs for operation and administration of the facility and programs are specifically excluded from FCMP.

SUBCHAPTER 15. ADOPTIONS

PART 14. POST-ADOPTION SERVICES

340:75-15-128.2. Title IV-E adoption assistance eligibility requirements

- (a) **The child.** The requirements for a child to be eligible for Title IV-E adoption assistance are outlined in this subsection.
 - (1) To be considered for adoption assistance, the child is:
 - (A) determined to have special needs, per Oklahoma Administrative Code (OAC) 340:75-15-128.4, prior to the finalization of the adoption; and
 - (B) by way of a voluntary placement, voluntary relinquishment, or a court-ordered removal with a judicial determination that remaining in the home would be contrary to the child's welfare, is at the time of initiation of adoption proceedings, in the care of:
 - (i) the Oklahoma Department of Human Services (DHS);
 - (ii) a federally-recognized Indian tribe; or
 - (iii) a licensed, private child-placing agency, effective October 1, 2009.
 - (2) To be eligible for adoption assistance the child:
 - (A) is Aid to Families with Dependent Children (AFDC) eligible at the time of removal, per OAC 340:75-13-13;
 - (B) attained the age listed in (i) through (ix) of this subparagraph in the federal fiscal year (FFY) phased in from October 1, 2009, through October 1, 2017, and an adoption assistance agreement is entered into during that FFY. The schedule for phasing in based on the child's applicable age that decreases by two years each subsequent FFY, is:
 - (i) FFY 2010 16 years of age;
 - (ii) FFY 2011 14 years of age;
 - (iii) FFY 2012 12 years of age;

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- (iv) FFY 2013 10 years of age;
- (v) FFY 2014 8 years of age;
- (vi) FFY 2015 6 years of age;
- (vii) FFY 2016 4 years of age;
- (viii) FFY 2017 2 years of age or in the case of a child for whom an adoption assistance agreement is entered into under this Section on or after July 1, 2024, any age; or
- (ix) FFY 2025 or thereafter any age;

(~~B~~C) meets the disability or medical requirements of the Supplemental Security Income (SSI) program;

(~~E~~D) is residing with a minor parent in foster care and the minor parent was placed in foster care by way of a voluntary placement agreement, voluntary relinquishment, or court-ordered removal;

(~~D~~E) was eligible for Title IV-E adoption assistance in a previous adoption when all of the child's adoptive parents died or their parental rights were voluntarily or involuntarily terminated; or

(~~E~~F) beginning October 1, 2009, is a child of any age for which an adoption assistance agreement is entered into, when the child:

- (i) was in foster care for 60-consecutive months; and
- (ii) is a sibling to a child who is eligible due to age or length in foster care and is placed in the same adoptive placement.

(b) **Kinship guardianship assistance payment not considered when determining adoption assistance eligibility.**

To determine eligibility for adoption assistance payments of a child placed for adoption by DHS who was previously in a legal guardianship arrangement, per Section 473(a)(1)(d) of Title IV-E, both the placement of the child with the relative guardian involved and any kinship guardianship assistance payments made on behalf of the child are considered never to have occurred.

(c) **The adoptive parent.** There is no means test for the potential adoptive parent to determine eligibility for adoption assistance. Title IV-E adoption assistance benefits are not available when a potential adoptive parent has a felony conviction for:

- (1) physical assault, battery, or a drug-related offense when the conviction occurs within the five-year period preceding the application date;
- (2) child abuse or neglect;

- (3) domestic abuse;
- (4) a crime against a child including, but not limited to, child pornography; or
- (5) a crime involving violence including, but not limited to, rape, sexual assault, or homicide, but excluding those crimes specified in (1) of this paragraph. Per Section 16 of Title 18 of the United States Code, a crime involving violence means an offense that:

(A) has as an element of the use, attempted use, or threatened use of physical force against the person or property of another; or

(B) by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

(d) **School enrollment.** The potential adoptive parent must provide written verification at the time he or she applies for adoption assistance and annually thereafter; that each child, who is the minimum age for compulsory school attendance under state law is:

- (1) enrolled in an institution that provides elementary or secondary education as determined under the law of the state or other jurisdiction in which the institution is located;
- (2) instructed in elementary or secondary education at home in accordance with a home school law or other jurisdiction in which the home is located;
- (3) in an independent study elementary or secondary education program in accordance with the law of the state or other jurisdiction in which the program is located that is administered by the local school or school district; or
- (4) incapable of attending school on a full-time basis due to a documented medical condition supported by regular updates.

(e) **Adoption of child not a United States (U.S.) citizen.** A child who has special needs:

- (1) but is not a U.S. citizen; and
- (2) was adopted in another country or brought to the U.S. for the purpose of adoption is categorically ineligible for Title IV-E adoption assistance, when the child meets the eligibility criteria after the dissolution of the international adoption.

[OAR Docket #19-398; filed 5-1-19]

Executive Orders

As required by 75 O.S., Sections 255 and 256, Executive Orders issued by the Governor of Oklahoma are published in both the *Oklahoma Register* and the *Oklahoma Administrative Code*. Executive Orders are codified in Title 1 of the *Oklahoma Administrative Code*.

Pursuant to 75 O.S., Section 256(B)(3), "Executive Orders of previous gubernatorial administrations shall terminate ninety (90) calendar days following the inauguration of the next Governor unless otherwise terminated or continued during that time by Executive Order."

TITLE 1. EXECUTIVE ORDERS

1:2019-19A.

AMENDED EXECUTIVE ORDER 2019-19

I, J. Kevin Stitt, Governor of the State of Oklahoma, pursuant to the power vested in me by Section 2 of Article VI of the Oklahoma Constitution, hereby declare the following:

1. Severe storms, tornadoes, straight-line winds and localized flooding beginning April 30, 2019, and continuing, have caused damage to public and private properties within the State of Oklahoma; and said damages have caused an undue hardship on the citizens of this State.

2. It may be necessary to provide for the rendering of mutual assistance among the State and political subdivisions of the State with respect to carrying out disaster emergency functions during the continuance of the State emergency pursuant to the provisions of the Oklahoma Emergency Management Act of 2003.

3. There is hereby declared a disaster emergency caused by the severe storms, tornadoes, straight-line winds, and flooding in the State of Oklahoma that threatens the lives and property of the people of this State and the public's peace, health, and safety. The counties included in this declaration are:

Adair, Alfalfa, Atoka, Beckham, Bryan, Caddo, Canadian, Carter, Cherokee, Choctaw, Cleveland, Coal, Comanche, Cotton, Craig, Creek, Custer, Delaware, Dewey, Garvin, Grady, Greer, Haskell, Hughes, Jackson, Jefferson, Johnston, Kay, Kingfisher, Kiowa, Latimer, Le Flore, Lincoln, Logan, Love, Marshall, Mayes, McClain, McCurtain, McIntosh, Murray, Muskogee, Noble, Nowata, Okfuskee, Oklahoma, Okmulgee, Osage, Ottawa, Pawnee, Payne, Pittsburg, Pontotoc, Pottawatomie, Pushmataha, Roger Mills, Rogers, Seminole, Sequoyah, Stephens, Tillman, Tulsa, Wagoner, Washington, Washita, and Woods.

4. The State Emergency Operations Plan was activated on April 30, 2019, and resources of all State departments and agencies available to meet this emergency are hereby committed to the reasonable extent necessary to protect lives and to prevent, minimize, and repair injury and damage. These efforts shall be coordinated by the Director of the Department of Emergency Management with comparable functions of the federal government and political subdivisions of the State.

5. State agencies, in responding to this disaster emergency, may make necessary emergency acquisitions to fulfill the purposes of this proclamation without regard to limitations or bidding requirements on such acquisitions.

This Executive Order shall terminate at the end of thirty (30) days.

Copies of this Executive Order shall be distributed to the Director of Emergency Management who shall cause the provisions of this Order to be implemented by all appropriate agencies of State government.

IN WITNESS WHEREOF, I have set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, this 8th day of May 2019.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

J. Kevin Stitt

ATTEST:
Michael Rogers
Secretary of State

[OAR Docket #19-401; filed 5-8-19]

1:2019-20.

EXECUTIVE ORDER 2019-20

Today, I signed into law Senate Bill 198, which requires all state agencies and political subdivisions to adopt a social networking and social media policy ("policy") that would apply to the use of social media by state employees and employees of any political subdivision of this state to discourage abusive or offensive online behavior.

Senate Bill 198 contains ambiguities regarding the employees to which it applies and when and where the policy would apply. In order to resolve these ambiguities and protect the first amendment rights of state employees, I hereby order all state agencies that develop any policy pursuant to Senate Bill 198 make the policy apply to all agency employees and limit it only to employee conduct while in their capacity as a state employee, on state time, and using state resources.

Executive Orders

Copies of this Executive Order shall be distributed to all Cabinet Secretaries and to the Chief Administrative Officers of all state agencies for immediate implementation.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 3rd day of May, 2019.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

J. Kevin Stitt

ATTEST:
Michael Rogers
Secretary of State

[OAR Docket #19-400; filed 5-3-19]

1:2019-21.

EXECUTIVE ORDER 2019-21

I, J. Kevin Stitt, Governor of the State of Oklahoma, pursuant to the authority vested in me by Sections 1 and 2 of

Article VI of the Oklahoma Constitution, in recognition of Peace Officers Memorial Day, direct that appropriate steps be taken to fly all American flags and Oklahoma flags on State property at half-staff until 5:00 p.m. on Wednesday, May 15, 2019, to honor Federal, State, and local officers killed or disabled in the line of duty.

This executive order shall be forwarded to the Division of Capitol Assets Management who shall cause the provision of this order to be implemented by all appropriate agencies of state government.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 15th day of May, 2019.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

J. Kevin Stitt

ATTEST:
Michael Rogers
Secretary of State

[OAR Docket #19-402; filed 5-15-19]
