

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 HOUSE BILL 2235

By: Russ

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5
6 AS INTRODUCED

7 An Act relating to marriage licenses; amending 28
8 O.S. 2011, Sections 31 and 152.4, which relate to
9 fees; modifying fee; providing fee for recording
10 marriage certificate or affidavit of common law
11 marriage; deleting marriage license fee collection
12 procedure; amending 43 O.S. 2011, Sections 3, 5.1, 7,
13 8, 9, as amended by Section 6, Chapter 278, O.S.L.
14 2012 and 15 (43 O.S. Supp. 2018, Section 9), which
15 relate to marriage; deleting reference to marriage
16 license; describing procedure when written permission
17 is required for marriage; directing permission be
18 retained by official or affixed to affidavit;
19 providing reduced marriage certificate fee if
20 premarital counseling is completed; providing
21 exception; allowing assemblies with no ordained
22 minister to solemnize marriages; allowing affidavit
23 of common law marriage; providing for filing of
24 affidavit with court clerk; listing contents of
25 affidavit; requiring execution of marriage
26 certificate; listing contents of certificate;
27 directing filing of certificate with court clerk;
28 instructing court clerk to record certificate or
29 affidavit; setting forth procedures for recording and
30 recordkeeping; requiring entity to accept certificate
31 or affidavit as proof of identity or marital status;
32 providing applicability; construing provision;
33 providing punishment for judge or clerk recording
34 prohibited marriage certificate; providing statutory
35 form for marriage certificate; repealing 43 O.S.
36 2011, Sections 4, 5, as amended by Section 1, Chapter
37 192, O.S.L. 2013, 6, 10, 19 and 36 (43 O.S. Supp.
38 2018, Section 5), which relate to marriage; providing
39 for codification; and providing an effective date.

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

2 SECTION 1. AMENDATORY 28 O.S. 2011, Section 31, is
3 amended to read as follows:

4 Section 31. Notwithstanding any other provision of law, the
5 clerk of the district court, or the clerk of any other court of
6 record, shall charge and collect the following fees for services by
7 them respectively rendered and none others, except as otherwise
8 provided by law:

9 Approving bond or undertaking, including
10 certificate and seal.....\$3.00

11 Making copy of an instrument of record or
12 on file, first page.....\$1.00

13 subsequent pages (each).....\$0.50

14 Certifying to any instrument (each).....\$0.50

15 Authentication of court records.....\$5.00

16 Receiving and paying out money in
17 pursuance of law or order of court.....1%

18 provided, however, that such charge
19 shall not exceed \$300.00.

20 ~~Application, issuing, entering return and~~

21 ~~recording~~ Recording marriage license

22 certificate if the applicants submit a

23 certificate that states the applicants

24 have completed the premarital counseling

1 program pursuant to Section 5.1 of Title
 2 43 of the Oklahoma Statutes.....\$5.00
 3 ~~Application, issuing, entering return and~~
 4 ~~recording~~ Recording marriage license
 5 certificate if the applicants do not
 6 submit a certificate that states the
 7 applicants have completed the premarital
 8 counseling program pursuant to Section
 9 5.1 of Title 43 of the Oklahoma Statutes
 10 or recording affidavit of common law
 11 marriage.....\$50.00
 12 Conveyance of full-blood Indian heirs to
 13 interest in inherited lands, same to be
 14 accounted for as other fees.....\$5.00
 15 Posting notice outside the courthouse.....\$10.00
 16 Mailing, by any type of mail, writs,
 17 warrants, orders, process, command or
 18 notice for each person.....\$10.00, or
 19 actual expense, whichever is greater,
 20 except ordinary mailing of first-class
 21 mail in probate cases, for each case.....\$10.00, or
 22 actual expense, whichever is greater.
 23 For the actual cost of all postage in each
 24 case in excess of.....\$10.00, or

1 actual expense, whichever is greater.

2 For filing and indexing of disclaimers

3 other than in pending probate or civil

4 cases pursuant to the provisions of

5 Section 751 et seq. of Title 60 of the

6 Oklahoma Statutes.....\$5.00

7 SECTION 2. AMENDATORY 28 O.S. 2011, Section 152.4, is

8 amended to read as follows:

9 Section 152.4 In any proceeding for issuance of a license ~~other~~
10 ~~than a marriage license~~, the court clerk shall collect at the time
11 of filing the application for said license, court costs in the same
12 amounts as required in civil cases in addition to other fees
13 prescribed by law.

14 SECTION 3. AMENDATORY 43 O.S. 2011, Section 3, is

15 amended to read as follows:

16 Section 3. A. Any unmarried person who is at least eighteen
17 (18) years of age and not otherwise disqualified is capable of
18 contracting and consenting to marriage ~~with a person of the opposite~~
19 ~~sex~~.

20 B. 1. Except as otherwise provided by this subsection, no
21 person under the age of eighteen (18) years shall enter into the
22 marriage relation, ~~nor shall any license issue therefor~~, except:
23
24

- 1 a. upon the consent and authority expressly given by the
2 parent or guardian of such underage ~~applicant in the~~
3 ~~presence of the authority issuing such license~~ person,
- 4 b. upon the written consent of the parent or guardian of
5 such underage ~~applicant~~ person executed and
6 acknowledged in person before a judge of the district
7 court or the court clerk of any county within the
8 State of Oklahoma,
- 9 c. if the parent or guardian resides outside of the State
10 of Oklahoma, upon the written consent of the parent or
11 guardian executed before a judge or clerk of a court
12 of record. The executed foreign consent shall be duly
13 authenticated in the same manner as proof of documents
14 from foreign jurisdictions,
- 15 d. if the certificate of a duly licensed medical doctor
16 or osteopath, acknowledged in the manner provided by
17 law for the acknowledgment of deeds, and stating that
18 such parent or guardian is unable by reason of health
19 or incapacity to be present in person, ~~is presented to~~
20 ~~such licensing authority~~, upon the written consent of
21 the parent or guardian, acknowledged in the same
22 manner as the accompanying medical certificate,
- 23 e. if the parent or guardian is on active duty with the
24 Armed Forces of the United States, upon the written

1 permission of the parent or guardian, acknowledged in
2 the manner provided by law for acknowledgment of deeds
3 by military personnel authorized to administer oaths.
4 Such permission shall be presented ~~to the licensing~~
5 ~~authority,~~ accompanied by a certificate executed by a
6 commissioned officer in command of the ~~applicant~~
7 person, to the effect that the parent or guardian is
8 on active duty in the Armed Forces of the United
9 States, or

10 f. upon affidavit of three ~~(3)~~ reputable persons stating
11 that both parents of the minor are deceased, or
12 mentally incompetent, or their whereabouts are unknown
13 to the minor, and that no guardian has theretofore
14 been appointed for the minor. ~~The judge of the~~
15 ~~district court issuing the license may in his or her~~
16 ~~discretion consent to the marriage in the same manner~~
17 ~~as in all cases in which consent may be given by a~~
18 ~~parent or guardian.~~

19 2. Every person under the age of sixteen (16) years is
20 expressly forbidden and prohibited from entering into the marriage
21 relation except when authorized by the court:

- 22 a. in settlement of a suit for seduction or paternity, or
- 23 b. if the unmarried female is pregnant, or has given
- 24 birth to an illegitimate child and at least one parent

1 of each minor, or the guardian or custodian of such
2 child, is present before the court and has an
3 opportunity to present evidence in the event such
4 parent, guardian, or custodian objects to the issuance
5 of a marriage license. If they are not present the
6 parent, guardian, or custodian may be given notice of
7 the hearing at the discretion of the court.

8 3. A parent or a guardian of any child under the age of
9 eighteen (18) years who is in the custody of the Department of Human
10 Services or the Department of Juvenile Justice shall not be eligible
11 to consent to the marriage of such minor child as required by the
12 provisions of this subsection.

13 4. Any certificate or written permission required by this
14 subsection shall be retained by the official ~~issuing~~ performing the
15 marriage ~~license~~ ceremony or affixed to the affidavit of common law
16 marriage.

17 C. No marriage may be authorized when such marriage would be
18 incestuous under this chapter.

19 SECTION 4. AMENDATORY 43 O.S. 2011, Section 5.1, is
20 amended to read as follows:

21 Section 5.1 A. The clerk of the district court shall reduce
22 the fee for recording a marriage ~~license~~ certificate as prescribed
23 by Section 31 of Title 28 of the Oklahoma Statutes to persons who
24

1 have successfully completed a premarital counseling program meeting
2 the conditions specified by this section.

3 B. 1. A premarital counseling program shall be conducted by a
4 health professional, an official representative of a religious
5 institution, or a person trained by the principal authors or duly
6 authorized agents of the principal authors of nationally recognized
7 marriage education curriculum including, but not limited to,
8 Prevention & Relationship Enhancement Program (PREP). Upon
9 successful completion of the program, the counseling program
10 provider shall issue to the persons a certificate signed by the
11 instructor of the counseling program. The certificate shall state
12 that the named persons have successfully completed the premarital
13 counseling requirements. A minimum of four (4) hours of education
14 or counseling shall be necessary for successful completion of the
15 marriage education curriculum.

16 2. For purposes of this subsection, the term "health
17 professional" means a person licensed or certified by this state to
18 practice psychiatry or psychology; a licensed social worker with
19 experience in marriage counseling; a licensed marital and family
20 therapist; or a licensed professional counselor.

21 SECTION 5. AMENDATORY 43 O.S. 2011, Section 7, is
22 amended to read as follows:

23 Section 7. A. All Except as provided in subsection E of this
24 section, marriages must be contracted by a formal ceremony performed

1 or solemnized in the presence of at least two adult, competent
2 persons as witnesses, by a judge or retired judge of any court in
3 this state, or an ordained or authorized preacher or minister of the
4 Gospel, priest or other ecclesiastical dignitary of any denomination
5 who has been duly ordained or authorized by the church to which he
6 or she belongs to preach the Gospel, or a rabbi and who is at least
7 eighteen (18) years of age.

8 B. 1. The judge shall place his or her order of appointment on
9 file with the office of the court clerk of the county in which he or
10 she resides.

11 2. The preacher, minister, priest, rabbi, or ecclesiastical
12 dignitary who is a resident of this state shall have filed, in the
13 office of the court clerk of the county in which he or she resides,
14 a copy of the credentials or authority from his or her church or
15 synagogue authorizing him or her to solemnize marriages.

16 3. The preacher, minister, priest, rabbi, or ecclesiastical
17 dignitary who is not a resident of this state, but has complied with
18 the laws of the state of which he or she is a resident, shall have
19 filed once, in the office of the court clerk of the county in which
20 he or she intends to perform or solemnize a marriage, a copy of the
21 credentials or authority from his or her church or synagogue
22 authorizing him or her to solemnize marriages.

23 4. The filing by resident or nonresident preachers, ministers,
24 priests, rabbis, ecclesiastical dignitaries or judges shall be

1 effective in and for all counties of this state; provided, no fee
2 shall be charged for such recording.

3 C. No person herein authorized to perform or solemnize a
4 marriage ceremony shall do so ~~unless the license issued therefor be~~
5 ~~first delivered into his or her possession nor unless he or she has~~
6 ~~good reason to believe the persons presenting themselves before him~~
7 ~~or her for marriage are the identical persons named in the license,~~
8 ~~and for whose marriage the same was issued, and that if there is no~~
9 a legal objection or impediment to such marriage.

10 D. Marriages between persons belonging to the society called
11 Friends, or Quakers, the spiritual assembly of the Baha'is, or the
12 Church of Jesus Christ of Latter Day Saints, or other assemblies
13 which have no ordained minister, may be solemnized by the persons
14 and in the manner prescribed by and practiced in any such society,
15 church, or assembly.

16 E. Beginning November 1, 2019, marriages not contracted by a
17 formal ceremony pursuant to subsection A of this section may be
18 acknowledged by filing an affidavit of common law marriage with the
19 court clerk. The affidavit of common law marriage shall be signed
20 by both parties, notarized with official seal affixed and include:

21 1. The place of residence of each party;

22 2. The full legal name and age of each party as they appear

23 upon or are calculable from a certified copy of the birth

24 certificate, the current driver license or identification card, the

1 current passport or visa, or any other certificate, license or
2 document issued by or existing pursuant to the laws of any nation or
3 of any state, or political subdivision thereof, accepted as proof of
4 identity and age;

5 3. The full name by which each party will be known after the
6 common law marriage, which shall become the full legal name of the
7 party upon the filing of the affidavit of common law marriage; and

8 4. That the parties are not disqualified from or incapable of
9 entering into a common law marriage.

10 SECTION 6. AMENDATORY 43 O.S. 2011, Section 8, is
11 amended to read as follows:

12 Section 8. A. The person performing or solemnizing the
13 marriage ceremony shall, immediately upon the completion of the
14 ceremony, ~~endorse upon the license~~ execute a marriage certificate
15 provided in Section 9 of this act authorizing the marriage and
16 containing the following information:

17 1. The place of residence of each party;

18 2. The full legal name and age of each party as they appear
19 upon or are calculable from a certified copy of the birth
20 certificate, the current driver license or identification card, the
21 current passport or visa, or any other certificate, license or
22 document issued by or existing pursuant to the laws of any nation or
23 of any state, or political subdivision thereof, accepted as proof of
24 identity and age;

1 3. The full name by which each party will be known after the
2 marriage, which shall become the full legal name of the party upon
3 the filing of the marriage certificate;

4 4. That the parties are not disqualified from or incapable of
5 entering into marriage;

6 5. His or her name and official or clerical designation;

7 ~~2.~~ 6. The court of which he or she is the judge, or the
8 congregation or body of which he or she is pastor, preacher,
9 minister, priest, rabbi or dignitary of a recognized assembly;
10 provided, that the authority to perform or solemnize marriages shall
11 be coextensive with the congregation or body of which he or she is
12 pastor, preacher, minister, priest, rabbi or dignitary of a
13 recognized assembly; provided further, that all marriages solemnized
14 among the society called Friends or Quakers, the spiritual assembly
15 of the Baha'is, or the Church of Jesus Christ of Latter-day Saints,
16 or other assemblies which have no ordained minister, in the form
17 heretofore practiced and in use in their meetings shall be good and
18 valid. One person chosen by such society, assembly, or church shall
19 be responsible for completing the marriage certificate pursuant to
20 this section in the same manner as a minister or other person
21 authorized to perform marriages;

22 ~~3.~~ 7. The town or city and county where the court,
23 congregation, body, society, assembly, or church is located; and
24

1 ~~4.~~ 8. His or her signature along with his or her official or
2 clerical designation.

3 B. The witnesses to the ceremony shall endorse the marriage
4 certificate, attesting to their presence at the ceremony, with their
5 names and post office addresses.

6 C. The persons who have been married in the ceremony shall
7 endorse the marriage certificate with the names by which they are to
8 be known from the time of the marriage, ~~as evidenced on the marriage~~
9 ~~license.~~

10 D. The ~~marriage license, along with the completed~~ marriage
11 certificate shall be transmitted without delay to the ~~judge or the~~
12 court clerk who ~~issued the license and~~ shall file the marriage
13 certificate.

14 SECTION 7. AMENDATORY 43 O.S. 2011, Section 9, as
15 amended by Section 6, Chapter 278, O.S.L. 2012 (43 O.S. Supp. 2018,
16 Section 9), is amended to read as follows:

17 Section 9. A. The ~~judge or~~ clerk of the district court ~~issuing~~
18 recording any marriage ~~license~~ certificate or affidavit of common
19 law marriage shall make a complete record of the ~~application,~~
20 ~~license, and certificate thereon,~~ or affidavit on an optical disc,
21 microfilm, microfiche, imaging, in a book kept by the ~~judge or~~ clerk
22 for that purpose, properly indexed, or by electronic means using any
23 method approved by the Supreme Court; and the record of the ~~license~~
24 ~~shall be made before it is delivered to the person procuring the~~

1 ~~same, and the record of the certificate or affidavit~~ shall be made
2 upon ~~the return of the license filing~~; provided, that all records
3 pertaining to ~~the issuance of such license~~ marriage certificates or
4 affidavits of common law marriage shall be open to public inspection
5 during office hours; provided further, that after recording of the
6 original ~~license and completed certificate~~ or affidavit as
7 hereinbefore required, it shall be returned to the persons ~~to whom~~
8 ~~the same was issued~~ who filed it, with the ~~issuing officer's~~ court
9 clerk's certificate affixed thereon showing the book and page or
10 case number where the same has been recorded.

11 B. Any entity requiring proof of identity or marital status
12 shall accept a certified copy of the marriage certificate or
13 affidavit of common law marriage that has been filed with the court
14 clerk. Any reference in the Oklahoma Statutes requiring a marriage
15 license as proof of identity or marital status shall be interpreted
16 to include a marriage certificate or affidavit of common law
17 marriage executed on or after November 1, 2019.

18 C. Nothing provided in this section shall be construed to
19 invalidate a marriage license issued by the court clerk prior to
20 November 1, 2019.

21 SECTION 8. AMENDATORY 43 O.S. 2011, Section 15, is
22 amended to read as follows:

23 Section 15. Any judge of the district court, or clerk of the
24 district court, knowingly ~~issuing~~ recording any marriage ~~license,~~

1 certificate or concealing any record thereof, contrary to the
2 provisions of this chapter, or any person knowingly performing or
3 solemnizing the marriage ceremony contrary to any of the provisions
4 of this chapter, shall be guilty of a misdemeanor and upon
5 conviction thereof shall be punished by a fine of not less than One
6 Hundred Dollars (\$100.00) nor more than Five Hundred Dollars
7 (\$500.00), or by imprisonment in the county jail not less than
8 thirty (30) days nor more than one (1) year or by both such fine and
9 imprisonment.

10 SECTION 9. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 8.1 of Title 43, unless there is
12 created a duplication in numbering, reads as follows:

13 A. The following statutory form of marriage certificate as
14 authorized by Section 8 of Title 43 of the Oklahoma Statutes is
15 legally sufficient:

16 STATUTORY FORM FOR MARRIAGE CERTIFICATE

17 In the District Court of

18 _____ County

19 I hereby certify that I _____

20 (Name of official solemnizing marriage)

21 _____ of _____

22 (Official or Clerical Designation) (Congregation or Religious Group)

23 of _____, in _____ County, State of Oklahoma

24 (City)

(County)

1 joined in marriage:

2 _____

3 (Full name of party as it appears on birth certificate or other
4 government-issued identification card)

5 of _____, County of _____

6 (City of residence) (County of residence)

7 State of _____, age _____ years

8 (State of residence) (age of party)

9 and

10 _____

11 (Full name of party as it appears on birth certificate or other
12 government-issued identification card)

13 of _____, County of _____

14 (City of residence) (County of residence)

15 State of _____, age _____ years

16 (State of residence) (age of party)

17 on the _____ day of _____, 20__ at _____,

18 State of Oklahoma, in the presence of witnesses who have endorsed
19 this Certificate below.

20 My credentials or authority to solemnize marriage are recorded in

21 Minister's Credentials Case No. _____ or Book _____ at

22 page _____ of _____ County, Oklahoma.

23 _____

24 (Signature of Official Solemnizing Marriage Ceremony)

1 _____

2 (Official or Clerical Designation)

3 In witness thereof, we hereby attest that we were present at the
4 ceremony referenced above:

5 _____ of _____, _____

6 (Witness) (City) (State)

7 _____ of _____, _____

8 (Witness) (City) (State)

9 _____

10 First Spouse's Full Name To Be Known As

11 _____

12 First Spouse's Signature (sign full name to be known as, exactly as
13 above)

14 _____

15 Second Spouse's Full Name To Be Known As

16 _____

17 Second Spouse's Signature (sign full name to be known as, exactly as
18 above)

19 This Marriage Certificate was filed with the Court Clerk's Office,
20 where it was recorded in Marriage Record Book _____ at Page _____

21 or in Case # _____ on the ___ day of _____, 20__.

22 _____, Court Clerk of _____ County

23 By _____

24 (Court Clerk or Deputy)

1 B. The power of attorney is legally sufficient under this act,
2 if the wording of the form complies substantially with subsection A
3 of this section, the form is properly completed, and the signatures
4 of the parties are acknowledged.

5 SECTION 10. REPEALER 43 O.S. 2011, Sections 4, 5, as
6 amended by Section 1, Chapter 192, O.S.L. 2013, 6, 10, 19 and 36 (43
7 O.S. Supp. 2018, Section 5), are hereby repealed.

8 SECTION 11. This act shall become effective November 1, 2019.

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10 57-1-6872 EK 12/27/18

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1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 HOUSE BILL 1276

By: Lawson

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5
6 AS INTRODUCED

7 An Act relating to marriage; amending 43 O.S. 2011,
8 Sections 109 and 110.1, which relate to child
9 custody; requiring court to comply with specified law
10 in determining custody; requiring equally shared
11 parenting time if requested by a parent; providing
12 exception for best interests of the child; directing
13 maximization of time with each parent if deviation is
14 warranted; and providing an effective date.

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

16 SECTION 1. AMENDATORY 43 O.S. 2011, Section 109, is
17 amended to read as follows:

18 Section 109. A. In awarding the custody of a minor unmarried
19 child or in appointing a general guardian for said child, the court
20 shall consider what appears to be in the best interests of the
21 physical and mental and moral welfare of the child.

22 B. The court, pursuant to the provisions of subsection A of
23 this section and Section 110.1 of this title, may grant the care,
24 custody, and control of a child to either parent or to the parents
jointly.

1 For the purposes of this section, the terms joint custody and
2 joint care, custody, and control mean the sharing by parents in all
3 or some of the aspects of physical and legal care, custody, and
4 control of their children.

5 C. If either or both parents have requested joint custody, said
6 parents shall file with the court their plans for the exercise of
7 joint care, custody, and control of their child. The parents of the
8 child may submit a plan jointly, or either parent or both parents
9 may submit separate plans. Any plan shall include but is not
10 limited to provisions detailing the physical living arrangements for
11 the child, child support obligations, medical and dental care for
12 the child, school placement, and visitation rights. A plan shall be
13 accompanied by an affidavit signed by each parent stating that said
14 parent agrees to the plan and will abide by its terms. The plan and
15 affidavit shall be filed with the petition for a divorce or legal
16 separation or after said petition is filed.

17 D. The court shall issue a final plan for the exercise of joint
18 care, custody, and control of the child or children, based upon the
19 plan submitted by the parents, separate or jointly, with appropriate
20 changes deemed by the court to be in the best interests of the
21 child. The court also may reject a request for joint custody and
22 proceed as if the request for joint custody had not been made.

23 E. The parents having joint custody of the child may modify the
24 terms of the plan for joint care, custody, and control. The

1 modification to the plan shall be filed with the court and included
2 with the plan. If the court determines the modifications are in the
3 best interests of the child, the court shall approve the
4 modifications.

5 F. The court also may modify the terms of the plan for joint
6 care, custody, and control upon the request of one parent. The
7 court shall not modify the plan unless the modifications are in the
8 best interests of the child.

9 G. 1. The court may terminate a joint custody decree upon the
10 request of one or both of the parents or whenever the court
11 determines said decree is not in the best interests of the child.

12 2. Upon termination of a joint custody decree, the court shall
13 proceed and issue a modified decree for the care, custody, and
14 control of the child as if no such joint custody decree had been
15 made.

16 H. In the event of a dispute between the parents having joint
17 custody of a child as to the interpretation of a provision of said
18 plan, the court may appoint an arbitrator to resolve said dispute.
19 The arbitrator shall be a disinterested person knowledgeable in
20 domestic relations law and family counseling. The determination of
21 the arbitrator shall be final and binding on the parties to the
22 proceedings until further order of the court.

23 If a parent refuses to consent to arbitration, the court may
24 terminate the joint custody decree.

1 I. 1. In every proceeding in which there is a dispute as to
2 the custody of a minor child, a determination by the court that
3 domestic violence, stalking, or harassment has occurred raises a
4 rebuttable presumption that sole custody, joint legal or physical
5 custody, or any shared parenting plan with the perpetrator of
6 domestic violence, harassing or stalking behavior is detrimental and
7 not in the best interest of the child, and it is in the best
8 interest of the child to reside with the parent who is not a
9 perpetrator of domestic violence, harassing or stalking behavior.

10 2. For the purposes of this subsection:

11 a. "domestic violence" means the threat of the infliction
12 of physical injury, any act of physical harm or the
13 creation of a reasonable fear thereof, or the
14 intentional infliction of emotional distress by a
15 parent or a present or former member of the household
16 of the child, against the child or another member of
17 the household, including coercive control by a parent
18 involving physical, sexual, psychological, emotional,
19 economic or financial abuse,

20 b. "stalking" means the willful course of conduct by a
21 parent who repeatedly follows or harasses another
22 person as defined in Section 1173 of Title 21 of the
23 Oklahoma Statutes, and
24

1 c. "harassment" means a knowing and willful course or
2 pattern of conduct by a parent directed at another
3 parent which seriously alarms or is a nuisance to the
4 person, and which serves no legitimate purpose
5 including, but not limited to, harassing or obscene
6 telephone calls or conduct that would cause a
7 reasonable person to have a fear of death or bodily
8 injury.

9 3. If a parent is absent or relocates as a result of an act of
10 domestic violence by the other parent, the absence or relocation
11 shall not be a factor that weighs against the parent in determining
12 custody or visitation.

13 4. The court shall consider, as a primary factor, the safety
14 and well-being of the child and of the parent who is the victim of
15 domestic violence or stalking behavior, in addition to other facts
16 regarding the best interest of the child.

17 5. The court shall consider the history of the parent causing
18 physical harm, bodily injury, assault, verbal threats, stalking, or
19 harassing behavior, or the fear of physical harm, bodily injury, or
20 assault to another person, including the minor child, in determining
21 issues regarding custody and visitation.

22 SECTION 2. AMENDATORY 43 O.S. 2011, Section 110.1, is
23 amended to read as follows:
24

1 Section 110.1 A. It is the policy of this state to assure that
2 minor children have frequent and continuing contact with parents who
3 have shown the ability to act in the best interests of their
4 children and to encourage parents to share in the rights and
5 responsibilities of rearing their children after the parents have
6 separated or dissolved their marriage, provided that the parents
7 agree to cooperate and that domestic violence, stalking, or
8 harassing behaviors as defined in Section 109 of this title are not
9 present in the parental relationship.

10 B. To effectuate this policy, if requested by a parent, the
11 court ~~may shall~~ provide ~~substantially equal access~~ equally shared
12 parenting time to the minor children to both parents at a temporary
13 order hearing, unless the court finds that shared parenting time
14 would not be ~~detrimental to~~ in the best interests of the child. If
15 a deviation from shared parenting time is warranted, the court shall
16 approve a parenting plan which maximizes the time each parent has
17 with the child and is consistent with the best interests of the
18 child.

19 SECTION 3. This act shall become effective November 1, 2019.

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21 57-1-5098 EK 01/12/19
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1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 HOUSE BILL 2013

By: Nollan

4
5
6 AS INTRODUCED

7 An Act relating to parents with disabilities;
8 creating the Persons with Disabilities Right to
9 Parent Act; defining terms; requiring compliance with
10 specified laws prior to action that could impact
11 parental rights of a person with a disability;
12 requiring Department of Human Services to make
13 reasonable efforts to avoid removal of child;
14 providing for referrals and reasonable
15 accommodations; prohibiting denial of reunification
16 services solely on basis of parental disability;
17 prescribing court to issue certain findings; banning
18 child-placing agency from denying person the right to
19 pursue adoption without certain considerations;
20 prohibiting Department from denying person the right
21 to access services; construing provision; requiring
22 assessments to take certain information into account;
23 specifying who shall conduct the assessments;
24 providing for codification; and providing an
effective date.

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

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 2021 of Title 25, unless there
is created a duplication in numbering, reads as follows:

A. This act shall be known and may be cited as the "Persons
with Disabilities Right to Parent Act".

1 B. As used in the Persons with Disabilities Right to Parent
2 Act:

3 1. "Adaptive parenting equipment" means equipment or any other
4 item that is used to increase, maintain or improve the parenting
5 capabilities of a person with a disability;

6 2. "Adaptive parenting techniques" means strategies for
7 accomplishing childcare and other parenting tasks that enable
8 persons with disabilities to execute a task safely for themselves
9 and their children alone or in conjunction with adaptive parenting
10 equipment;

11 3. "Child custody proceeding" means a proceeding in court in
12 which a third party is seeking to be awarded temporary or permanent
13 legal or physical custody of a child, to obtain legal guardianship
14 of a child or to limit or deny visitation of a parent or legal
15 guardian, including an action filed by the other parent;

16 4. "Child protection proceeding" means a proceeding in court
17 provided for in the Oklahoma Children's Code relating to protection
18 of children from abuse or neglect, access to services and other
19 support for parents to preserve or reunify the family and permanency
20 planning for children whose parents are unable or unwilling to
21 parent adequately;

22 5. "Child-placing agency" means an agency that arranges for or
23 places a child in a foster family home, group home, adoptive home or
24 a successful adulthood program;

1 6. "Covered entity" has the same meaning as provided for in the
2 Americans with Disabilities Act, as amended;

3 7. "Department" means the Department of Human Services;

4 8. "Disability" means a physical or mental impairment that
5 substantially limits one or more of the major life activities of an
6 individual, a record of an impairment, or being regarded as having
7 an impairment, consistent with the Americans with Disabilities Act,
8 as amended, and as interpreted broadly under that act. An
9 individual who is currently engaging in the illegal use of drugs or
10 the abuse of alcohol, drugs or other substances is not an individual
11 with a "disability" for purposes of this act; and

12 9. "Supportive services" means services that help a person with
13 a disability compensate for those aspects of the disability that
14 affect the ability to care for a child and that enable the person to
15 fulfill parental responsibilities including, but not limited to,
16 specialized or adaptive training, evaluations and assistance with
17 effective use of adaptive equipment, and accommodations that enable
18 a person with a disability to benefit from other services, such as
19 braille text or sign language interpretation.

20 SECTION 2. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 2022 of Title 25, unless there
22 is created a duplication in numbering, reads as follows:

23 A. The Department of Human Services, courts and any other
24 covered entity shall comply with the Americans with Disabilities

1 Act, Section 504 of the Rehabilitation Act of 1973 and the
2 Fourteenth Amendment before taking any action that could impact the
3 parental rights of a person with a disability.

4 B. 1. The Department shall, consistent with its purposes:

5 a. make reasonable efforts, that are individualized and
6 based upon the specific disability of a parent or
7 legal guardian, to avoid removal of a child from the
8 home of a parent or legal guardian with a disability,
9 including referrals for access to adaptive parenting
10 equipment, referrals for instruction on adaptive
11 parenting techniques and reasonable accommodations
12 with regard to accessing services that are otherwise
13 made available to a parent or legal guardian who does
14 not have a disability, and

15 b. make reasonable accommodations to a parent or legal
16 guardian with a disability as part of placement and
17 visitation decisions; preventive, maintenance and
18 reunification services; and evaluations or assessments
19 of parenting capacity.

20 2. The Department, and any other covered entity, shall not deny
21 reunification services to a parent or legal guardian with a
22 disability solely on the basis of the disability.

23 C. If any party to the proceedings alleges that the parent or
24 legal guardian has a disability that affects the ability of the

1 parent or legal guardian to fulfill parental responsibilities, the
2 court shall determine and include as findings in the probable cause
3 order:

4 1. The nature of the parent or legal guardian's disability, if
5 any, that affects the parent or legal guardian's ability to fulfill
6 parental responsibilities;

7 2. The reasonable efforts made by the Department to avoid
8 removal of the child from the parent or legal guardian, including
9 reasonable efforts made to address the parenting limitations caused
10 by the disability; and

11 3. Reasonable accommodations the Department, and any other
12 covered entity, shall make to provide the parent or legal guardian
13 with the opportunity to participate fully in the child protection
14 proceedings throughout the duration of the case.

15 SECTION 3. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 2023 of Title 25, unless there
17 is created a duplication in numbering, reads as follows:

18 A. A child-placing agency shall not deny a person with a
19 disability the right to pursue adoption of a child solely on the
20 basis of the disability without considering whether adaptive
21 parenting equipment, instruction in adaptive parenting techniques
22 and other supportive services could enable the person to parent
23 adequately.

24

1 B. The Department and any other covered entity that provides
2 pre- or postadoption services shall not deny a person with a
3 disability the right to access services solely on the basis of the
4 disability without considering whether adaptive parenting equipment,
5 instruction in adaptive parenting techniques and other supportive
6 services could enable the person to parent adequately.

7 SECTION 4. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 2024 of Title 25, unless there
9 is created a duplication in numbering, reads as follows:

10 Nothing within the Persons with Disabilities Right to Parent Act
11 shall be construed to allow discrimination on the basis of
12 disability. In cases involving a parent with a disability,
13 assessments under this act shall take into account the use of any
14 accommodation including, but not limited to, adaptive parenting
15 equipment, adaptive parenting techniques, assistive technology and
16 support services, whether formal or informal, and shall be conducted
17 by or with the assistance of one or more individuals who possess a
18 combination of experience, training, expertise and knowledge in the
19 use of the equipment, techniques and services.

20 SECTION 5. This act shall become effective November 1, 2019.

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22 57-1-5565 EK 01/10/19

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1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 HOUSE BILL 2616

By: Echols

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5
6 AS INTRODUCED

7 An Act relating to child support; amending 43 O.S.
8 2011, Section 119.1, which relates to review of child
9 support guidelines; creating the Child Support
10 Guidelines Review Committee; requiring at least
11 quadrennial review of child support guidelines and
12 schedule; providing for membership of Committee;
13 prohibiting compensation of members; providing for
14 travel reimbursement and per diem; prescribing
15 reimbursement methods; directing Committee to gather
16 certain information and input; mandating Internet
17 publication for public to access information about
18 review; listing information to be included; requiring
19 Committee to consider certain factors in review
20 process; directing Committee to submit a report after
21 each review; setting deadline for review report; and
22 specifying review report recipients.

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

24 SECTION 1. AMENDATORY 43 O.S. 2011, Section 119.1, is
amended to read as follows:

Section 119.1 ~~The~~ A. To ensure that their application results
in the determination of appropriate child support award amounts, the
child support guidelines and schedule of basic child support
obligations shall be reviewed at least once every four (4) years by

1 ~~the Judiciary Committees of the Senate and the House of~~
2 ~~Representatives to ensure that their application results in the~~
3 ~~determination of appropriate child support award amounts~~ Child
4 Support Guidelines Review Committee consisting of eleven (11)
5 members as follows:

6 1. Chairs of the House of Representatives and Senate Judiciary
7 Committees;

8 2. One Senator appointed by the Senate President Pro Tempore;

9 3. One Representative appointed by the Speaker of the House of
10 Representatives;

11 4. The Director of the Department of Human Services or
12 designee;

13 5. One member of the Oklahoma Bar Association from the Title
14 IV-D Child Support Program to be designated by the Director of the
15 Department of Human Services;

16 6. One member of the judiciary appointed by the Senate
17 President Pro Tempore;

18 7. One member of the judiciary appointed by the Speaker of the
19 House of Representatives;

20 8. One member appointed by the Governor;

21 9. One member of the Oklahoma Bar Association appointed by the
22 Senate President Pro Tempore; and

23 10. One member of the Oklahoma Bar Association appointed by the
24 Speaker of the House of Representatives.

1 B. Members of the Child Support Guidelines Review Committee
2 shall serve without compensation for their services, except for
3 reimbursement of necessary travel, lodging and per diem expenses
4 while performing their duties. Members of state government shall
5 receive reimbursement as provided by law, and other members shall be
6 reimbursed by the Legislature for their travel, lodging and per diem
7 expenses in accordance with Section 500.2 of Title 74 of the
8 Oklahoma Statutes.

9 C. The Child Support Guidelines Review Committee shall obtain
10 the views and advice from the Title IV-D Child Support Program in
11 the Department of Human Services, and provide for meaningful
12 opportunity for public input, including input from low-income
13 custodial and noncustodial parents and their representatives. The
14 Committee shall publish on the Internet and make accessible to the
15 public all aspects of the review, including the membership of the
16 reviewing body, the effective date of the guidelines, and the date
17 of the next quadrennial review.

18 D. As part of the review of the state's child support
19 guidelines, the Child Support Guidelines Review Committee shall:

20 1. Consider economic data on the cost of raising children;
21 labor market data, such as unemployment rates, employment rates,
22 hours worked and earnings, by occupation and skill-level for the
23 state and local job markets; the impact of guidelines, policies and
24 amounts on custodial and noncustodial parents who have family

1 incomes below two hundred percent (200%) of the federal poverty
2 level; and factors that influence employment rates among
3 noncustodial parents and compliance with child support orders;

4 2. Use analysis of case data, gathered through sampling or
5 other methods, on the application of and deviations from the child
6 support guidelines, as well as the rates of default and imputed
7 child support orders and orders determined using a low-income
8 adjustment that takes into consideration the basic subsistence needs
9 of the noncustodial parent, custodial parent and children; and

10 3. Include a comparison of payments on child support orders by
11 case characteristics, including whether the order was entered by
12 default, based on imputed income, or determined using a low-income
13 adjustment. The analysis of the data shall be used in the state's
14 review of the child support guidelines to ensure that deviations
15 from the guidelines are limited and guideline amounts are
16 appropriate based on Section 118H of this title.

17 E. The Child Support Guidelines Review Committee shall submit a
18 report within sixty (60) days after each quadrennial review to the
19 Governor, the President Pro Tempore of the Senate, the Speaker of
20 the House of Representatives and the Director of Human Services.

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22 57-1-7324 EK 01/14/19
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1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 HOUSE BILL 2270

By: West (Josh)

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5
6 AS INTRODUCED

7 An Act relating to children; amending 10 O.S. 2011,
8 Section 7700-607, as amended by Section 1, Chapter
9 96, O.S.L. 2014 (10 O.S. Supp. 2018, Section 7700-
10 607), which relates to the Uniform Parentage Act;
11 adding exception to limitations of paternity actions;
12 and providing an effective date.

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

14 SECTION 1. AMENDATORY 10 O.S. 2011, Section 7700-607, as
15 amended by Section 1, Chapter 96, O.S.L. 2014 (10 O.S. Supp. 2018,
16 Section 7700-607), is amended to read as follows:

17 Section 7700-607. A. Except as otherwise provided in
18 subsection B, C or D of this section, a proceeding brought by a
19 presumed father, the mother, or another individual to adjudicate the
20 parentage of a child having a presumed father shall be commenced not
21 later than two (2) years after the birth of the child.

22 B. A proceeding seeking to disprove the father-child
23 relationship between a child and the child's presumed father may be
24 maintained at any time in accordance with Section 7700-608 of this

1 title if the court, prior to an order disproving the father-child
2 relationship, determines that:

3 1. The presumed father and the mother of the child neither
4 cohabited nor engaged in sexual intercourse with each other during
5 the probable time of conception; and

6 2. The presumed father never openly held out the child as his
7 own.

8 C. A proceeding seeking to disprove the father-child
9 relationship between a child and the child's presumed or
10 acknowledged father may be maintained at any time if the court
11 determines that the biological father, presumed or acknowledged
12 father, and the mother agree to adjudicate the biological father's
13 parentage in accordance with Sections 7700-608 and 7700-636 of this
14 title. If the presumed or acknowledged father or mother is
15 unavailable, the court may proceed if it is determined that diligent
16 efforts have been made to locate the unavailable party and it would
17 not be prejudicial to the best interest of the child to proceed
18 without that party. In a proceeding under this section, the court
19 shall enter an order either confirming the existing father-child
20 relationship or adjudicating the biological father as the parent of
21 the child. A final order under this subsection shall not leave the
22 child without an acknowledged or adjudicated father.

23 D. A proceeding seeking to disprove the father-child
24 relationship between a child and the child's presumed or

1 acknowledged father may be maintained at any time in accordance with
2 Section 7700-608 of this title if the court determines that the
3 mother committed fraud and genetic testing shows the child is not
4 biologically related to the presumed or acknowledged father.

5 SECTION 2. This act shall become effective November 1, 2019.

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7 57-1-5099 EK 11/20/18

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1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 HOUSE BILL 1272

By: Lawson

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6 AS INTRODUCED

7 An Act relating to children; amending 10A O.S. 2011,
8 Sections 1-4-201, as amended by Section 3, Chapter
9 355, O.S.L. 2014, 1-4-203, as amended by Section 2,
10 Chapter 173, O.S.L. 2015, 1-4-206 and 1-4-601 (10A
11 O.S. Supp. 2018, Sections 1-4-201 and 1-4-203), which
12 relate to the Oklahoma Children's Code; requiring
13 probable cause for taking custody without a court
14 order; prescribing probable cause for taking custody
15 with a court order; mandating court to use probable
16 cause standard at emergency custody hearing;
17 directing court to advise person of right to certain
18 hearing for release of child; permitting restraining
19 order against alleged abuse perpetrator based on
20 probable cause; requiring probable cause to prevent
21 certain release from emergency custody; creating
22 hearing procedure for release of child in emergency
23 custody; specifying timing for hearing; providing
24 extension for good cause; limiting timing for
extension; permitting information regardless of
admissibility under the Oklahoma Evidence Code;
directing court to release child unless an imminent
safety threat exists; providing for codification; and
providing an effective date.

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

SECTION 1. AMENDATORY 10A O.S. 2011, Section 1-4-201, as
amended by Section 3, Chapter 355, O.S.L. 2014 (10A O.S. Supp. 2018,
Section 1-4-201), is amended to read as follows:

1 Section 1-4-201. A. Pursuant to the provisions of this
2 section, a child may be taken into custody prior to the filing of a
3 petition:

4 1. By a peace officer or employee of the court, without a court
5 order if the officer or employee has ~~reasonable suspicion~~ probable
6 cause to believe that:

7 a. the child is in need of immediate protection due to an
8 imminent safety threat,

9 b. the circumstances or surroundings of the child are
10 such that continuation in the child's home or in the
11 care or custody of the parent, legal guardian, or
12 custodian would present an imminent safety threat to
13 the child, or

14 c. the child, including a child with a disability, is
15 unable to communicate effectively about abuse, neglect
16 or other safety threat or is in a vulnerable position
17 due to the inability to communicate effectively and
18 the child is in need of immediate protection due to an
19 imminent safety threat; or

20 2. By an order of the district court issued upon the
21 application of the office of the district attorney. The application
22 presented by the district attorney may be supported by a sworn
23 affidavit which may be based upon information and belief. The
24 application shall state facts sufficient to demonstrate to the court

1 that a continuation of the child in the home or with the caretaker
2 of the child is contrary to the child's welfare and there is
3 ~~reasonable suspicion~~ probable cause to believe that:

- 4 a. the child is in need of immediate protection due to an
5 imminent safety threat,
- 6 b. the circumstances or surroundings of the child are
7 such that continuation in the child's home or in the
8 care or custody of the parent, legal guardian, or
9 custodian would present an imminent safety threat to
10 the child, or
- 11 c. the child, including a child with a disability, is
12 unable to communicate effectively about abuse, neglect
13 or other safety threat or is in a vulnerable position
14 due to the inability to communicate effectively and
15 the child is in need of immediate protection due to an
16 imminent safety threat.

17 The application and order may be verbal and upon being advised by
18 the district attorney or the court of the verbal order, law
19 enforcement shall act on such order. If verbal, the district
20 attorney shall submit a written application and proposed order to
21 the district court within one (1) judicial day from the issuance of
22 the verbal order. Upon approval, the application and order shall be
23 filed with the court clerk; or

24

1 3. By order of the district court when the child is in need of
2 medical or behavioral health treatment in order to protect the
3 health, safety, or welfare of the child and the parent, legal
4 guardian, or custodian of the child is unwilling or unavailable to
5 consent to such medical or behavioral health treatment or other
6 action, the court shall specifically include in the emergency order
7 authorization for such medical or behavioral health evaluation or
8 treatment as it deems necessary.

9 B. 1. By January 1, 2010, the Department in consultation with
10 law enforcement and the district courts shall develop and implement
11 a system for joint response when a child is taken into protective
12 custody by a peace officer pursuant to paragraph 1 of subsection A
13 of this section. The system shall include:

14 a. designation of persons to serve as contact points for
15 peace officers, including at least one backup contact
16 for each initial contact point,

17 b. a protocol for conducting a safety evaluation at the
18 scene where protective custody is assumed to determine
19 whether the child faces an imminent safety threat and,
20 if so, whether the child can be protected through
21 placement with relatives or others without the
22 Department assuming emergency custody,

23 c. the development of reception centers for accepting
24 protective custody of children from peace officers

1 when the Department is unable to respond at the scene
2 within a reasonable time period,

3 d. a protocol for conducting a safety evaluation at the
4 reception center within twenty-three (23) hours of the
5 assumption of protective custody of a child to
6 determine whether the child faces an imminent safety
7 threat and, if so, whether the child can be protected
8 through placement with relatives or others without the
9 Department assuming emergency custody, and

10 e. a protocol, when the child cannot safely be left in
11 the home, for transporting a child to the home of a
12 relative, kinship care home, an emergency foster care
13 home, a shelter, or any other site at which the
14 Department believes the child can be protected,
15 provided that the Department shall utilize a shelter
16 only when the home of a relative, kinship care home,
17 or emergency foster care home is unavailable or
18 inappropriate.

19 2. Beginning January 1, 2010, no child taken into protective
20 custody under paragraph 1 of subsection A of this section shall be
21 considered to be in the emergency custody of the Department until
22 the Department has completed a safety evaluation and has concluded
23 that the child faces an imminent safety threat and the court has
24 issued an order for emergency custody.

1 3. If the safety evaluation performed by the Department of a
2 child taken into protective custody under paragraph 1 of subsection
3 A of this section indicates that the child does not face an imminent
4 safety threat, the Department shall restore the child to the custody
5 and control of the parent, legal guardian, or custodian of the
6 child.

7 C. When an order issued by the district court pursuant to
8 subsection A of this section places the child in the emergency
9 custody of the Department of Human Services pending further hearing
10 specified by Section 1-4-203 of this title, an employee of the
11 Department may execute such order and physically take the child into
12 custody in the following limited circumstance:

13 1. The child is located in a hospital, school, or day care
14 facility; and

15 2. It is believed that assumption of the custody of the child
16 from the facility can occur without risk to the child or the
17 employee of the Department.

18 Otherwise, the order shall be executed and the child taken into
19 custody by a peace officer or employee of the court.

20 D. The court shall not enter a prepetition emergency custody
21 order removing a child from the home of the child unless the court
22 makes a determination:

23 1. That an imminent safety threat exists and continuation in
24 the home of the child is contrary to the welfare of the child; and

1 2. Whether reasonable efforts have been made to prevent the
2 removal of the child from the child's home; or

3 3. An absence of efforts to prevent the removal of the child
4 from the home of the child is reasonable because the removal is due
5 to an emergency and is for the purpose of providing for the safety
6 and welfare of the child.

7 E. Whenever a child is taken into custody pursuant to this
8 section:

9 1. The child may be taken to a kinship care home or an
10 emergency foster care home designated by the Department, or if no
11 such home is available, to a children's shelter located within the
12 county where protective or emergency custody is assumed or, if there
13 is no children's shelter within the county, to a children's shelter
14 designated by the court;

15 2. Unless otherwise provided by administrative order entered
16 pursuant to subsection F of this section, the child may be taken
17 before a judge of the district court or the court may be contacted
18 verbally for the purpose of obtaining an order for emergency
19 custody. The court may place the child in the emergency custody of
20 the Department or some other suitable person or entity pending
21 further hearing specified by Section 1-4-203 of this title;

22 3. The child may be taken directly to or retained in a health
23 care facility for medical treatment, when the child is in need of
24

1 emergency medical treatment to maintain the child's health, or as
2 otherwise directed by the court; or

3 4. The child may be taken directly to or retained in a
4 behavioral health treatment facility for evaluation or inpatient
5 treatment, in accordance with the provisions of the Inpatient Mental
6 Health and Substance Abuse Treatment of Minors Act, when the child
7 is in need of behavioral health care to preserve the child's health,
8 or as otherwise directed by the court; and

9 5. Unless otherwise provided by administrative order entered
10 pursuant to subsection F of this section, the district court of the
11 county where the custody is assumed shall be immediately notified,
12 verbally or in writing, that the child has been taken into custody.
13 If notification is verbal, written notification shall be sent to the
14 district court within one (1) judicial day of such verbal
15 notification.

16 F. The court may provide, in an administrative order issued
17 pursuant to this section, for the disposition of children taken into
18 custody and notification of the assumption of such custody.

19 1. Such order or rule shall be consistent with the provisions
20 of subsection E of this section and may include a process for
21 release of a child prior to an emergency custody hearing. The
22 administrative order shall not include a provision to modify
23 protective custody of a child to emergency custody of the Department
24 upon admission of a child to a shelter; and

1 2. The administrative order may require joint training of peace
2 officers and Department staff deemed necessary by the court to carry
3 out the provisions of the administrative order.

4 G. No child taken into custody pursuant to this section shall
5 be confined in any jail, adult lockup, or adult or juvenile
6 detention facility.

7 H. When a determination is made by the Department that there is
8 a significant risk of abuse or neglect, but there is not an imminent
9 safety threat to the child, the Department may recommend a court-
10 supervised and Department-monitored in-home placement. The
11 Department shall assist the family in obtaining the services
12 necessary to maintain the in-home care and correct the conditions
13 leading to the risk determination.

14 I. Any peace officer, employee of the court, or employee of the
15 Department is authorized to transport a child when acting pursuant
16 to this section. Such persons and any other person acting under the
17 direction of the court, who in good faith transports any child or
18 carries out duties pursuant to this section, shall be immune from
19 civil or criminal liability that may result by reason of such act.
20 For purposes of any proceedings, civil or criminal, the good faith
21 of any such person shall be presumed. This provision shall not
22 apply to damage or injury caused by the willful, wanton or gross
23 negligence or misconduct of a person.

24

1 J. A parent or person responsible for the child who is arrested
2 on a charge or warrant other than child abuse or neglect or an act
3 of child endangerment may designate another person to take physical
4 custody of the child. Upon this request, the peace officer may
5 release the child to the physical custody of the designated person.

6 SECTION 2. AMENDATORY 10A O.S. 2011, Section 1-4-203, as
7 amended by Section 2, Chapter 173, O.S.L. 2015 (10A O.S. Supp. 2018,
8 Section 1-4-203), is amended to read as follows:

9 Section 1-4-203. A. Within the next two (2) judicial days
10 following the child being taken into protective or emergency
11 custody, the court shall conduct an emergency custody hearing. At
12 the hearing, information may be provided to the court in the form of
13 oral or written reports, affidavits or testimony. Any information
14 having probative value may be received by the court regardless of
15 its admissibility under the Oklahoma Evidence Code. At the hearing
16 the court shall:

17 1. Determine whether facts exist that are sufficient to
18 demonstrate to the court there is ~~reasonable suspicion~~ probable
19 cause to believe that the child is in need of immediate protection
20 due to abuse or neglect, or that the circumstances or surroundings
21 of the child are such that continuation of the child in the child's
22 home or in the care or custody of the parent, legal guardian, or
23 custodian would present an imminent danger to the child;

24

1 2. Advise the parent, legal guardian, or custodian of the child
2 in writing of the following:

- 3 a. any right of the parent, legal guardian, or custodian
- 4 to testify and present evidence at court hearings,
- 5 b. the right to be represented by an attorney at court
- 6 hearings,
- 7 c. the consequences of failure to attend any hearings
- 8 which may be held, ~~and~~
- 9 d. the right to appeal and procedure for appealing an
- 10 order of the court, and
- 11 e. the right to a hearing at any time prior to
- 12 disposition seeking release of the child from
- 13 emergency custody;

14 3. Determine custody of the child and order one of the
15 following:

- 16 a. release of the child to the custody of the child's
- 17 parent, legal guardian, or custodian from whom the
- 18 child was removed under any conditions the court finds
- 19 reasonably necessary to protect the health, safety, or
- 20 welfare of the child, or
- 21 b. placement of the child in the custody of a responsible
- 22 adult or licensed child-placing agency under any
- 23 conditions the court finds reasonably necessary to
- 24

1 protect the health, safety, or welfare of the child,
2 or

3 c. whether to continue the child in or to place the child
4 into the emergency custody of the Department of Human
5 Services;

6 4. Order the parent, legal guardian, or custodian to complete
7 an affidavit listing the names, addresses, and phone numbers of any
8 parent, whether known or alleged, grandparent, aunt, uncle, brother,
9 sister, half-sibling, and first cousin and any comments concerning
10 the appropriateness of the potential placement of the child with the
11 relative. If no such relative exists, the court shall require the
12 parent, legal guardian, or custodian to list any other relatives or
13 persons with whom the child has had a substantial relationship or
14 who may be a suitable placement for the child;

15 5. Direct the parent, legal guardian, or custodian to furnish
16 the Department with a copy of the child's birth certificate within
17 fifteen (15) days from the hearing if a petition is filed, unless
18 otherwise extended by the court; and

19 6. In accordance with the safety or well-being of any child,
20 determine whether reasonable efforts have been made to:

21 a. place siblings, who have been removed, together in the
22 same foster care, guardianship, or adoptive placement,
23 and
24

1 b. provide for frequent visitation or other ongoing
2 interaction in the case of siblings who have been
3 removed and who are not placed together.

4 B. The office of the State Court Administrator shall create an
5 affidavit form and make it available to each court responsible for
6 conducting emergency custody hearings. The affidavit form shall
7 contain a notice to the parent, legal guardian, or custodian that
8 failure to identify a parent or relative in a timely manner may
9 result in the child being permanently placed outside of the home of
10 the child's parent or relative. The affidavit form shall also
11 advise the parent, legal guardian, or custodian of the penalties
12 associated with perjury and contempt of court. The original
13 completed affidavit shall be filed with the court clerk no later
14 than five (5) days after the hearing or as otherwise directed by the
15 court and a copy shall be provided to the Department.

16 C. 1. The Department shall, within thirty (30) days of the
17 removal of a child, exercise due diligence to identify relatives.
18 Notice shall be provided by the Department to the following adult
19 relatives: all grandparents, all parents of a sibling of the child,
20 where the parent has legal custody of the sibling, and other adult
21 relatives of the child, including relatives suggested by the
22 parents, as the court directs. The notice shall advise the
23 relatives:
24

- 1 a. the child has been or is being removed from the
2 custody of the parent or parents of the child,
3 b. of the options under applicable law to participate in
4 the care and placement of the child, including any
5 options that may be lost by failing to respond to the
6 notice, and
7 c. of the requirements to become a foster family home and
8 the additional services and supports available for
9 children placed in the home.

10 2. Relatives shall not be notified if notification would not be
11 in the best interests of a child due to past or current family or
12 domestic violence. The Department may promulgate rules in
13 furtherance of the provisions of this subsection.

14 SECTION 3. AMENDATORY 10A O.S. 2011, Section 1-4-206, is
15 amended to read as follows:

16 Section 1-4-206. A. 1. At the emergency custody hearing or
17 when a petition has been filed alleging that a child has been
18 physically or sexually abused, the court may enter an order
19 restraining the alleged perpetrator of the abuse from having contact
20 with the child or attempting to contact the child and requiring the
21 alleged perpetrator to move from the household in which the child
22 resides. The court may issue a restraining order only if the court
23 finds that:
24

1 a. there is ~~a reasonable suspicion~~ probable cause to
2 believe that abuse occurred and that the person to be
3 restrained committed the abuse, and

4 b. the order is in the best interest of the child.

5 2. The court may also enter other appropriate orders including,
6 but not limited to, orders that control contact between the alleged
7 abuser, other children in the home, and any other person.

8 3. The court shall include in an order entered under this
9 subsection the following information about the person to be
10 restrained to the extent known by the court at the time the order is
11 entered:

12 a. name,

13 b. address,

14 c. age and birth date,

15 d. race,

16 e. sex,

17 f. height and weight,

18 g. color of hair and eyes, and

19 h. any other identifying features such as tattoos.

20 4. The court may include in the order a provision that a peace
21 officer accompany the restrained person to the household when it is
22 necessary for the restrained person to remove personal property.

23 B. If the court enters an order under this section:
24

1 1. The clerk of the court shall provide without charge the
2 number of certified true copies of the order and petition, if
3 available, necessary to effect service and shall deliver the same to
4 the sheriff or other person qualified to serve the order for service
5 upon the person to be restrained; and

6 2. The sheriff or other person qualified to serve the order
7 shall serve the person to be restrained personally unless that
8 person is present at the hearing. After accepting the order, if the
9 sheriff or other person cannot complete service within ten (10)
10 days, the sheriff or other person shall file a return to the clerk
11 of the court showing that service was not completed and the reason
12 for the noncompletion.

13 C. Within thirty (30) days after an order is served under this
14 section, the restrained person may file a written request with the
15 court and receive a court hearing on any portion of the order. If
16 the restrained person requests a hearing under this subsection:

17 1. The court shall notify the parties and the restrained person
18 of the date and time of the hearing; and

19 2. The court shall hold a hearing within twenty-one (21) days
20 after the request for hearing is filed with the court and at the
21 conclusion of the hearing may cancel or modify the order.

22 D. 1. Within twenty-four (24) hours of the return of service
23 of the restraining order, the clerk of the issuing court shall send
24 certified copies thereof to all appropriate law enforcement agencies

1 designated by the court. A certified copy of any extension,
2 modification, vacation, cancellation, or consent agreement
3 concerning the restraining order shall be sent by the clerk of the
4 issuing court to those law enforcement agencies receiving the
5 original orders pursuant to this section and to any law enforcement
6 agencies designated by the court.

7 2. Any law enforcement agency receiving copies of the documents
8 listed in paragraph 1 of this subsection shall be required to ensure
9 that other law enforcement agencies have access twenty-four (24)
10 hours a day to the information contained in the documents which may
11 include entry of information about the restraining order in the
12 National Crime Information Center database.

13 E. A restraining order issued pursuant to this section remains
14 in effect for a period of one (1) year or until the order is sooner
15 modified, amended, or terminated by court order.

16 F. A court that issued a restraining order under this section
17 may renew the order for a period of up to one (1) year if the court
18 finds that there is probable cause to believe the renewal is in the
19 best interest of the child. The court may renew the order on motion
20 by the state or the child's attorney alleging facts supporting the
21 required finding. If the renewal order is granted, subsections B
22 and C of this section apply.

23 G. If a restraining order issued pursuant to this section is
24 terminated before its expiration date, the clerk of the court shall

1 promptly deliver a true copy of the termination order to the
2 sheriff. The sheriff shall promptly remove the original order from
3 the National Crime Information Center database.

4 H. Any person who has been served with the restraining order
5 and is in violation of the restraining order, upon conviction, shall
6 be guilty of a misdemeanor and shall be punished by a fine of not
7 more than One Thousand Dollars (\$1,000.00) or by a term of
8 imprisonment in the county jail of not more than one (1) year, or
9 both such fine and imprisonment.

10 SECTION 4. AMENDATORY 10A O.S. 2011, Section 1-4-601, is
11 amended to read as follows:

12 Section 1-4-601. A. The court shall hold an adjudication
13 hearing following the filing of a petition alleging that a child is
14 deprived. The hearing shall be held not more than ninety (90)
15 calendar days following the filing of the petition. The child and
16 the child's parents, guardian, or other legal custodian shall be
17 entitled to not less than twenty (20) days' prior notice of the
18 hearing.

19 B. 1. The child shall be released from emergency custody in
20 the event the adjudication hearing is delayed beyond ninety (90)
21 days from the date the petition is filed unless the court issues a
22 written order with findings of fact supporting a determination that:

23 a. there exists ~~reasonable suspicion~~ probable cause to
24 believe that the health, safety, or welfare of the

1 child would be in imminent danger if the child were
2 returned to the home, and

3 b. there exists either an exceptional circumstance to
4 support the continuance of the child in emergency
5 custody or the parties and the guardian ad litem, if
6 any, agree to such continuance.

7 2. If the adjudicatory hearing is delayed pursuant to this
8 subsection, the emergency custody order shall expire unless the
9 hearing on the merits of the petition is held within one hundred
10 eighty (180) days after the actual removal of the child.

11 C. The release of a child from emergency custody due to the
12 failure of an adjudication hearing being held within the time frame
13 prescribed by this section shall not deprive the court of
14 jurisdiction over the child and the parties or authority to enter
15 temporary orders the court deems necessary to provide for the
16 health, safety, and welfare of the child pending the hearing on the
17 petition.

18 D. At the adjudication hearing, if the court finds that it is
19 in the best interest of the child, the court shall:

20 1. Accept a stipulation by the child's parent, guardian, or
21 other legal custodian that the facts alleged in the petition are
22 true and correct;

23 2. Accept a stipulation by the child's parent, guardian, or
24 other legal custodian that if the state presented its evidence

1 supporting the truth of the factual allegations in the petition to a
2 court of competent jurisdiction, such evidence would be sufficient
3 to meet the state's burden of proving by a preponderance of the
4 evidence that the factual allegations are true and correct; or

5 3. Conduct a nonjury trial to determine whether the state has
6 met its burden of proving by a preponderance of the evidence that
7 the factual allegations in the petition are true and correct.

8 E. 1. A decision determining a child to be deprived in a
9 nonjury trial shall be based on sworn testimony.

10 2. The child, as a party to the proceeding, shall be given the
11 opportunity to cross-examine witnesses and to present a case in
12 chief if desired.

13 SECTION 5. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 1-4-203.1 of Title 10A, unless
15 there is created a duplication in numbering, reads as follows:

16 As provided in subparagraph e of paragraph 2 of subsection A of
17 Section 1-4-203 of Title 10A of the Oklahoma Statutes, upon the
18 application of the parent or other person legally responsible for
19 the care of a child temporarily removed as provided in Section 1-4-
20 203 of Title 10A of the Oklahoma Statutes or upon the application of
21 the attorney for the child for an order releasing the child, the
22 court shall hold a hearing to determine whether the child should be
23 released from emergency custody. The hearing shall be held within
24 three (3) judicial days of the application unless extended by the

1 court for good cause shown. An extension for the hearing shall be
2 for no more than seven (7) judicial days. Any information with
3 probative value may be received by the court regardless of its
4 admissibility under the Oklahoma Evidence Code. The court shall
5 grant the application at the hearing, unless it finds that releasing
6 the child would present an imminent safety threat to the child.

7 SECTION 6. This act shall become effective November 1, 2019.

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9 57-1-5065 EK 01/02/19

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1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 HOUSE BILL 1274

By: Lawson

4
5
6 AS INTRODUCED

7 An Act relating to child welfare; amending 10A O.S.
8 2011, Sections 1-1-105, as last amended by Section 1,
9 Chapter 256, O.S.L. 2018 and 1-4-201, as amended by
10 Section 3, Chapter 355, O.S.L. 2014 (10A O.S. Supp.
11 2018, Sections 1-1-105 and 1-4-201), which relate to
12 the Oklahoma Children's Code; adding definition for
13 situational neglect; prohibiting removal of child for
14 situational neglect; providing exception; authorizing
15 Department of Human Services to recommend in-home
16 placement; directing Department to assist family in
17 obtaining necessary support services; and providing
18 an effective date.

19
20
21 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

22 SECTION 1. AMENDATORY 10A O.S. 2011, Section 1-1-105, as
23 last amended by Section 1, Chapter 256, O.S.L. 2018 (10A O.S. Supp.
24 2018, Section 1-1-105), is amended to read as follows:

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

1. "Abandonment" means:

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

- 1 b. the failure to maintain a significant parental
2 relationship with a child through visitation or
3 communication in which incidental or token visits or
4 communication are not considered significant, or
5 c. the failure to respond to notice of deprived
6 proceedings;

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

- 15 a. "Harm or threatened harm to the health or safety of a
16 child" means any real or threatened physical, mental,
17 or emotional injury or damage to the body or mind that
18 is not accidental including but not limited to sexual
19 abuse, sexual exploitation, neglect, or dependency.
20 b. "Sexual abuse" includes but is not limited to rape,
21 incest, and lewd or indecent acts or proposals made to
22 a child, as defined by law, by a person responsible
23 for the health, safety, or welfare of the child.
24

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

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

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

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

17 a. activities or items that are generally accepted as
18 suitable for children of the same age or level of
19 maturity or that are determined to be developmentally
20 appropriate for a child, based on the development of
21 cognitive, emotional, physical, and behavioral
22 capacities that are typical for an age or age group,
23 and
24

1 b. in the case of a specific child, activities or items
2 that are suitable for that child based on the
3 developmental stages attained by the child with
4 respect to the cognitive, emotional, physical, and
5 behavioral capacities of the specific child.

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

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

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

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

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

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

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

7 b. midlevel nonurban centers in districts with child
8 populations equal to or greater than sixty thousand
9 (60,000), but not including Oklahoma and Tulsa
10 counties;

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

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

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

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

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

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

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

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

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

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

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

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

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

23 21. "Deprived child" means a child:
24

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

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

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

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

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

21 j. whose parent, legal guardian, or custodian has
22 subjected another child to abuse or neglect or has
23 allowed another child to be subjected to abuse or
24

1 neglect and is currently a respondent in a deprived
2 proceeding.

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

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

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

16 23. "Drug-endangered child" means a child who is at risk of
17 suffering physical, psychological or sexual harm as a result of the
18 use, possession, distribution, manufacture or cultivation of
19 controlled substances, or the attempt of any of these acts, by a
20 person responsible for the health, safety or welfare of the child,
21 as defined in this section. This term includes circumstances
22 wherein the substance abuse of the person responsible for the
23 health, safety or welfare of the child interferes with that person's
24

1 ability to parent and provide a safe and nurturing environment for
2 the child;

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

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

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

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

24

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

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

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

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

23
24

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

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

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

- 13 a. a substantial risk of death,
- 14 b. extreme physical pain,
- 15 c. protracted disfigurement,
- 16 d. a loss or impairment of the function of a body member,
17 organ, or mental faculty,
- 18 e. an injury to an internal or external organ or the
19 body,
- 20 f. a bone fracture,
- 21 g. sexual abuse or sexual exploitation,
- 22 h. chronic abuse including, but not limited to, physical,
23 emotional, or sexual abuse, or sexual exploitation
24 which is repeated or continuing,

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

35. "Heinous and shocking neglect" includes, but is not limited

to:

- a. chronic neglect that includes, but is not limited to, a persistent pattern of family functioning in which the caregiver has not met or sustained the basic needs of a child which results in harm to the child,
- b. neglect that has resulted in a diagnosis of the child as a failure to thrive,
- c. an act or failure to act by a parent that results in the death or near death of a child or sibling, serious physical or emotional harm, sexual abuse, sexual exploitation, or presents an imminent risk of serious harm to a child, or
- d. any other similar aggravating circumstance;

36. "Individualized service plan" means a document written pursuant to Section 1-4-704 of this title that has the same meaning

1 as "service plan" or "treatment plan" where those terms are used in
2 the Oklahoma Children's Code;

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

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

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

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

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

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

18 (1) "substantiated" means the Department has
19 determined, after an investigation of a report of
20 child abuse or neglect and based upon some
21 credible evidence, that child abuse or neglect
22 has occurred. When child abuse or neglect is
23 substantiated, the Department may recommend:
24

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

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

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

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

24

1 40. "Kinship care" means full-time care of a child by a kinship
2 relation;

3 41. "Kinship guardianship" means a permanent guardianship as
4 defined in this section;

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

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

14 44. "Minor" means the same as the term "child" as defined in
15 this section;

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

19 46. "Multidisciplinary child abuse team" means any team
20 established pursuant to Section 1-9-102 of this title of three or
21 more persons who are trained in the prevention, identification,
22 investigation, prosecution, and treatment of physical and sexual
23 child abuse and who are qualified to facilitate a broad range of
24 prevention- and intervention-related services and services related

1 to child abuse. For purposes of this definition, "freestanding"
2 means a team not used by a child advocacy center for its
3 accreditation;

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

7 48. "Neglect" means:

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

- 10 (1) adequate nurturance and affection, food,
11 clothing, shelter, sanitation, hygiene, or
12 appropriate education,
13 (2) medical, dental, or behavioral health care,
14 (3) supervision or appropriate caretakers, or
15 (4) special care made necessary by the physical or
16 mental condition of the child,

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

- 19 (1) the use, possession, sale, or manufacture of
20 illegal drugs,
21 (2) illegal activities, or
22 (3) sexual acts or materials that are not age-
23 appropriate, or

24 c. abandonment.

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

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

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

18 51. "Permanent guardianship" means a judicially created
19 relationship between a child, a kinship relation of the child, or
20 other adult established pursuant to the provisions of Section 1-4-
21 709 of this title;

22 52. "Person responsible for a child's health, safety, or
23 welfare" includes a parent; a legal guardian; custodian; a foster
24 parent; a person eighteen (18) years of age or older with whom the

1 child's parent cohabitates or any other adult residing in the home
2 of the child; an agent or employee of a public or private
3 residential home, institution, facility or day treatment program as
4 defined in Section 175.20 of Title 10 of the Oklahoma Statutes; or
5 an owner, operator, or employee of a child care facility as defined
6 by Section 402 of Title 10 of the Oklahoma Statutes;

7 53. "Plan of safe care" means a plan developed for an infant
8 with Neonatal Abstinence Syndrome or a Fetal Alcohol Spectrum
9 Disorder upon release from the care of a health care provider that
10 addresses the health and substance use treatment needs of the infant
11 and mother or caregiver;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 66. "Situational neglect" means neglect that occurs because of
21 a specific situation or crisis, including but not limited to
22 bereavement or poverty, and as such tends to only last for a period
23 of time, depending on the situation;
24

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

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

8 ~~67.~~ 68. "Successful adulthood program" means a program
9 specifically designed to assist a child to enhance those skills and
10 abilities necessary for successful adult living. A successful
11 adulthood program may include, but shall not be limited to, such
12 features as minimal direct staff supervision, and the provision of
13 supportive services to assist children with activities necessary for
14 finding an appropriate place of residence, completing an education
15 or vocational training, obtaining employment, or obtaining other
16 similar services;

17 ~~68.~~ 69. "Temporary custody" means court-ordered custody of an
18 adjudicated deprived child;

19 ~~69.~~ 70. "Therapeutic foster family home" means a foster family
20 home which provides specific treatment services, pursuant to a
21 therapeutic foster care contract, which are designed to remedy
22 social and behavioral problems of a foster child residing in the
23 home;

1 ~~70.~~ 71. "Trafficking in persons" means sex trafficking or
2 severe forms of trafficking in persons as described in Section 7102
3 of Title 22 of the United States Code:

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

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

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

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

19 ~~71.~~ 72. "Transitional living program" means a residential
20 program that may be attached to an existing facility or operated
21 solely for the purpose of assisting children to develop the skills
22 and abilities necessary for successful adult living. The program
23 may include, but shall not be limited to, reduced staff supervision,
24 vocational training, educational services, employment and employment

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

3 ~~72.~~ 73. "Voluntary foster care placement" means the temporary
4 placement of a child by the parent, legal guardian or custodian of
5 the child in foster care pursuant to a signed placement agreement
6 between the Department or a child-placing agency and the child's
7 parent, legal guardian or custodian.

8 SECTION 2. AMENDATORY 10A O.S. 2011, Section 1-4-201, as
9 amended by Section 3, Chapter 355, O.S.L. 2014 (10A O.S. Supp. 2018,
10 Section 1-4-201), is amended to read as follows:

11 Section 1-4-201. A. Pursuant to the provisions of this
12 section, a child may be taken into custody prior to the filing of a
13 petition:

14 1. By a peace officer or employee of the court, without a court
15 order if the officer or employee has reasonable suspicion that:

16 a. the child is in need of immediate protection due to an
17 imminent safety threat,

18 b. the circumstances or surroundings of the child are
19 such that continuation in the child's home or in the
20 care or custody of the parent, legal guardian, or
21 custodian would present an imminent safety threat to
22 the child, or

23 c. the child, including a child with a disability, is
24 unable to communicate effectively about abuse, neglect

1 or other safety threat or is in a vulnerable position
2 due to the inability to communicate effectively and
3 the child is in need of immediate protection due to an
4 imminent safety threat; or

5 2. By an order of the district court issued upon the
6 application of the office of the district attorney. The application
7 presented by the district attorney may be supported by a sworn
8 affidavit which may be based upon information and belief. The
9 application shall state facts sufficient to demonstrate to the court
10 that a continuation of the child in the home or with the caretaker
11 of the child is contrary to the child's welfare and there is
12 reasonable suspicion that:

- 13 a. the child is in need of immediate protection due to an
14 imminent safety threat,
- 15 b. the circumstances or surroundings of the child are
16 such that continuation in the child's home or in the
17 care or custody of the parent, legal guardian, or
18 custodian would present an imminent safety threat to
19 the child, or
- 20 c. the child, including a child with a disability, is
21 unable to communicate effectively about abuse, neglect
22 or other safety threat or is in a vulnerable position
23 due to the inability to communicate effectively and
24

1 the child is in need of immediate protection due to an
2 imminent safety threat.

3 The application and order may be verbal and upon being advised by
4 the district attorney or the court of the verbal order, law
5 enforcement shall act on such order. If verbal, the district
6 attorney shall submit a written application and proposed order to
7 the district court within one (1) judicial day from the issuance of
8 the verbal order. Upon approval, the application and order shall be
9 filed with the court clerk; or

10 3. By order of the district court when the child is in need of
11 medical or behavioral health treatment in order to protect the
12 health, safety, or welfare of the child and the parent, legal
13 guardian, or custodian of the child is unwilling or unavailable to
14 consent to such medical or behavioral health treatment or other
15 action, the court shall specifically include in the emergency order
16 authorization for such medical or behavioral health evaluation or
17 treatment as it deems necessary.

18 B. 1. By January 1, 2010, the Department in consultation with
19 law enforcement and the district courts shall develop and implement
20 a system for joint response when a child is taken into protective
21 custody by a peace officer pursuant to paragraph 1 of subsection A
22 of this section. The system shall include:
23
24

- 1 a. designation of persons to serve as contact points for
2 peace officers, including at least one backup contact
3 for each initial contact point,
- 4 b. a protocol for conducting a safety evaluation at the
5 scene where protective custody is assumed to determine
6 whether the child faces an imminent safety threat and,
7 if so, whether the child can be protected through
8 placement with relatives or others without the
9 Department assuming emergency custody,
- 10 c. the development of reception centers for accepting
11 protective custody of children from peace officers
12 when the Department is unable to respond at the scene
13 within a reasonable time period,
- 14 d. a protocol for conducting a safety evaluation at the
15 reception center within twenty-three (23) hours of the
16 assumption of protective custody of a child to
17 determine whether the child faces an imminent safety
18 threat and, if so, whether the child can be protected
19 through placement with relatives or others without the
20 Department assuming emergency custody, and
- 21 e. a protocol, when the child cannot safely be left in
22 the home, for transporting a child to the home of a
23 relative, kinship care home, an emergency foster care
24 home, a shelter, or any other site at which the

1 Department believes the child can be protected,
2 provided that the Department shall utilize a shelter
3 only when the home of a relative, kinship care home,
4 or emergency foster care home is unavailable or
5 inappropriate.

6 2. Beginning January 1, 2010, no child taken into protective
7 custody under paragraph 1 of subsection A of this section shall be
8 considered to be in the emergency custody of the Department until
9 the Department has completed a safety evaluation and has concluded
10 that the child faces an imminent safety threat and the court has
11 issued an order for emergency custody.

12 3. If the safety evaluation performed by the Department of a
13 child taken into protective custody under paragraph 1 of subsection
14 A of this section indicates that the child does not face an imminent
15 safety threat, the Department shall restore the child to the custody
16 and control of the parent, legal guardian, or custodian of the
17 child.

18 C. When an order issued by the district court pursuant to
19 subsection A of this section places the child in the emergency
20 custody of the Department of Human Services pending further hearing
21 specified by Section 1-4-203 of this title, an employee of the
22 Department may execute such order and physically take the child into
23 custody in the following limited circumstance:
24

1 1. The child is located in a hospital, school, or day care
2 facility; and

3 2. It is believed that assumption of the custody of the child
4 from the facility can occur without risk to the child or the
5 employee of the Department.

6 Otherwise, the order shall be executed and the child taken into
7 custody by a peace officer or employee of the court.

8 D. The court shall not enter a prepetition emergency custody
9 order removing a child from the home of the child unless the court
10 makes a determination:

11 1. That an imminent safety threat exists and continuation in
12 the home of the child is contrary to the welfare of the child; and

13 2. Whether reasonable efforts have been made to prevent the
14 removal of the child from the child's home; or

15 3. An absence of efforts to prevent the removal of the child
16 from the home of the child is reasonable because the removal is due
17 to an emergency and is for the purpose of providing for the safety
18 and welfare of the child.

19 E. Whenever a child is taken into custody pursuant to this
20 section:

21 1. The child may be taken to a kinship care home or an
22 emergency foster care home designated by the Department, or if no
23 such home is available, to a children's shelter located within the
24 county where protective or emergency custody is assumed or, if there

1 is no children's shelter within the county, to a children's shelter
2 designated by the court;

3 2. Unless otherwise provided by administrative order entered
4 pursuant to subsection F of this section, the child may be taken
5 before a judge of the district court or the court may be contacted
6 verbally for the purpose of obtaining an order for emergency
7 custody. The court may place the child in the emergency custody of
8 the Department or some other suitable person or entity pending
9 further hearing specified by Section 1-4-203 of this title;

10 3. The child may be taken directly to or retained in a health
11 care facility for medical treatment, when the child is in need of
12 emergency medical treatment to maintain the child's health, or as
13 otherwise directed by the court; or

14 4. The child may be taken directly to or retained in a
15 behavioral health treatment facility for evaluation or inpatient
16 treatment, in accordance with the provisions of the Inpatient Mental
17 Health and Substance Abuse Treatment of Minors Act, when the child
18 is in need of behavioral health care to preserve the child's health,
19 or as otherwise directed by the court; and

20 5. Unless otherwise provided by administrative order entered
21 pursuant to subsection F of this section, the district court of the
22 county where the custody is assumed shall be immediately notified,
23 verbally or in writing, that the child has been taken into custody.
24 If notification is verbal, written notification shall be sent to the

1 district court within one (1) judicial day of such verbal
2 notification.

3 F. The court may provide, in an administrative order issued
4 pursuant to this section, for the disposition of children taken into
5 custody and notification of the assumption of such custody.

6 1. Such order or rule shall be consistent with the provisions
7 of subsection E of this section and may include a process for
8 release of a child prior to an emergency custody hearing. The
9 administrative order shall not include a provision to modify
10 protective custody of a child to emergency custody of the Department
11 upon admission of a child to a shelter; and

12 2. The administrative order may require joint training of peace
13 officers and Department staff deemed necessary by the court to carry
14 out the provisions of the administrative order.

15 G. No child taken into custody pursuant to this section shall
16 be confined in any jail, adult lockup, or adult or juvenile
17 detention facility.

18 H. When a determination is made by the Department that there is
19 a significant risk of abuse or neglect, but there is not an imminent
20 safety threat to the child, the Department may recommend a court-
21 supervised and Department-monitored in-home placement. The
22 Department shall assist the family in obtaining the services
23 necessary to maintain the in-home care and correct the conditions
24 leading to the risk determination.

1 I. A child shall not be taken into custody due to situational
2 neglect unless the Department determines the child is in need of
3 immediate protection due to an imminent safety threat. The
4 Department may recommend a court-supervised and Department-monitored
5 in-home placement in cases of situational neglect. The Department
6 shall assist the family in obtaining the services necessary to
7 maintain the in-home care and correct the conditions leading to the
8 situational neglect.

9 J. Any peace officer, employee of the court, or employee of the
10 Department is authorized to transport a child when acting pursuant
11 to this section. Such persons and any other person acting under the
12 direction of the court, who in good faith transports any child or
13 carries out duties pursuant to this section, shall be immune from
14 civil or criminal liability that may result by reason of such act.
15 For purposes of any proceedings, civil or criminal, the good faith
16 of any such person shall be presumed. This provision shall not
17 apply to damage or injury caused by the willful, wanton or gross
18 negligence or misconduct of a person.

19 ~~J.~~ K. A parent or person responsible for the child who is
20 arrested on a charge or warrant other than child abuse or neglect or
21 an act of child endangerment may designate another person to take
22 physical custody of the child. Upon this request, the peace officer
23 may release the child to the physical custody of the designated
24 person.

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SECTION 3. This act shall become effective November 1, 2019.

57-1-5067 EK 01/02/19

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 HOUSE BILL 2329

By: McDugle

4
5
6 AS INTRODUCED

7 An Act relating to child welfare; amending 10A O.S.
8 2011, Sections 1-2-101, as last amended by Section 1,
Chapter 277, O.S.L. 2018 and 1-2-106 (10A O.S. Supp.
9 2018, Section 1-2-101), which relate to the Oklahoma
Children's Code; requiring person reporting child
10 abuse or neglect to disclose name, telephone number
and address; declaring information is confidential
11 and disclosed only upon a court order; directing
transfer of certain call to emergency number;
12 modifying information included in notice of
investigation; and providing an effective date.

13
14
15 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

16 SECTION 1. AMENDATORY 10A O.S. 2011, Section 1-2-101, as
17 last amended by Section 1, Chapter 277, O.S.L. 2018 (10A O.S. Supp.
18 2018, Section 1-2-101), is amended to read as follows:

19 Section 1-2-101. A. 1. The Department of Human Services shall
20 establish a statewide centralized hotline for the reporting of child
21 abuse or neglect to the Department.

22 2. The Department shall provide hotline-specific training
23 including, but not limited to, interviewing skills, customer service
24

1 skills, narrative writing, necessary computer systems, making case
2 determinations, and identifying priority situations.

3 3. The Department is authorized to contract with third parties
4 in order to train hotline workers.

5 4. The Department shall develop a system to track the number of
6 calls received, and of that number:

7 a. the number of calls screened out,

8 b. the number of referrals assigned,

9 c. the number of calls received by persons unwilling to
10 disclose basic personal information including, but not
11 limited to, first and last name, and

12 d. the number of calls in which the allegations were
13 later found to be unsubstantiated or ruled out.

14 5. The Department shall electronically record each referral
15 received by the hotline and establish a secure means of retaining
16 the recordings for twelve (12) months. Each referral shall include
17 the name, telephone number and address of the person making the
18 referral. The Department shall inform the person making the
19 referral that his or her name and identifying information shall be
20 confidential and subject to disclosure only if a court orders the
21 disclosure of the information. If the person making the referral is
22 unwilling to provide this information, the call shall be transferred
23 to emergency telephone number nine-one-one (911). The recordings
24 shall be confidential and subject to disclosure only if a court

1 orders the disclosure of the referral. The Department shall redact
2 any information identifying the reporting party unless otherwise
3 ordered by the court.

4 B. 1. Every person having reason to believe that a child under
5 the age of eighteen (18) years is a victim of abuse or neglect shall
6 report the matter immediately to the Department of Human Services.
7 Reports shall be made to the hotline provided for in subsection A of
8 this section. Any allegation of abuse or neglect reported in any
9 manner to a county office shall immediately be referred to the
10 hotline by the Department. Provided, however, that in actions for
11 custody by abandonment, provided for in Section 2-117 of Title 30 of
12 the Oklahoma Statutes, there shall be no reporting requirement.

13 2. a. Every teacher of any child under the age of eighteen
14 (18) years having reason to believe that a child under
15 the age of eighteen (18) years is a victim of abuse or
16 neglect shall report the matter immediately to the
17 Department of Human Services. Reports shall be made
18 to the hotline provided for in subsection A of this
19 section. Any allegation of abuse or neglect reported
20 in any manner to a county office shall immediately be
21 referred to the hotline by the Department. Provided,
22 however, that in actions for custody by abandonment,
23 provided for in Section 2-117 of Title 30 of the
24

1 Oklahoma Statutes, there shall be no reporting
2 requirement, and

3 b. every teacher of a student age eighteen (18) years or
4 older having reason to believe that a student age
5 eighteen (18) years or older is a victim of abuse or
6 neglect shall report the matter immediately to local
7 law enforcement.

8 3. Every physician, surgeon, or other health care professional
9 including doctors of medicine, licensed osteopathic physicians,
10 residents and interns, or any other health care professional
11 attending the birth of a child who tests positive for alcohol or a
12 controlled dangerous substance shall promptly report the matter to
13 the Department.

14 4. No privilege or contract shall relieve any person from the
15 requirement of reporting pursuant to this section.

16 5. The reporting obligations under this section are individual,
17 and no employer, supervisor, administrator, governing body or entity
18 shall interfere with the reporting obligations of any employee or
19 other person or in any manner discriminate or retaliate against the
20 employee or other person who in good faith reports suspected child
21 abuse or neglect, or who provides testimony in any proceeding
22 involving child abuse or neglect. Any employer, supervisor,
23 administrator, governing body or entity who discharges,
24 discriminates or retaliates against the employee or other person

1 shall be liable for damages, costs and attorney fees. If a child
2 who is the subject of the report or other child is harmed by the
3 discharge, discrimination or retaliation described in this
4 paragraph, the party harmed may file an action to recover damages,
5 costs and attorney fees.

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

17 C. Any person who knowingly and willfully fails to promptly
18 report suspected child abuse or neglect or who interferes with the
19 prompt reporting of suspected child abuse or neglect may be reported
20 to local law enforcement for criminal investigation and, upon
21 conviction thereof, shall be guilty of a misdemeanor. Any person
22 with prolonged knowledge of ongoing child abuse or neglect who
23 knowingly and willfully fails to promptly report such knowledge may
24 be reported to local law enforcement for criminal investigation and,

1 upon conviction thereof, shall be guilty of a felony. For the
2 purposes of this paragraph, "prolonged knowledge" shall mean
3 knowledge of at least six (6) months of child abuse or neglect.

4 D. 1. Any person who knowingly and willfully makes a false
5 report pursuant to the provisions of this section or a report that
6 the person knows lacks factual foundation may be reported to local
7 law enforcement for criminal investigation and, upon conviction
8 thereof, shall be guilty of a misdemeanor.

9 2. If a court determines that an accusation of child abuse or
10 neglect made during a child custody proceeding is false and the
11 person making the accusation knew it to be false at the time the
12 accusation was made, the court may impose a fine, not to exceed Five
13 Thousand Dollars (\$5,000.00) and reasonable attorney fees incurred
14 in recovering the sanctions, against the person making the
15 accusation. The remedy provided by this paragraph is in addition to
16 paragraph 1 of this subsection or to any other remedy provided by
17 law.

18 E. Nothing contained in this section shall be construed to
19 exempt or prohibit any person from reporting any suspected child
20 abuse or neglect pursuant to subsection B of this section.

21 SECTION 2. AMENDATORY 10A O.S. 2011, Section 1-2-106, is
22 amended to read as follows:

23 Section 1-2-106. At the initial time of contact with a person
24 responsible for the health, safety, or welfare of a child who is the

1 subject of an investigation pursuant to the Oklahoma Children's
2 Code, the Department of Human Services shall advise the person of
3 the specific complaint or allegation made against the person. If
4 the Department is unable to locate the person, as soon as possible
5 after initiating the investigation of the person, the Department
6 shall provide to the person a brief and easily understood written
7 description of the investigation process. Notice shall include:

8 1. A statement that the investigation is being undertaken by
9 the Department pursuant to the requirements of the Oklahoma
10 Children's Code in response to a report of child abuse or neglect;

11 2. A statement that the identity of the person who reported the
12 incident of abuse or neglect is confidential and ~~may not even be~~
13 ~~known to the Department since the report could have been made~~
14 anonymously shall only be disclosed upon a court order;

15 3. A statement that the investigation is required by law to be
16 conducted in order to enable the Department to identify incidents of
17 abuse or neglect in order to provide protective or preventive social
18 services to families who are in need of such services;

19 4. A statement that, upon completion of the investigation, a
20 letter will be sent from the Department which will inform the
21 person:

22 a. that the Department has found insufficient evidence of
23 abuse or neglect, or

24

1 b. that there appears to be probable cause to suspect the
2 existence of child abuse or neglect in the judgment of
3 the Department;

4 5. An explanation of the procedures of the Department for
5 conducting an investigation of alleged child abuse or neglect,
6 including:

7 a. a description of the circumstances under which the
8 Department would seek to remove the child from the
9 home through the judicial system, and

10 b. an explanation that the law requires the Department to
11 refer all reports of child abuse or neglect to a law
12 enforcement agency for a separate determination of
13 whether a criminal violation occurred;

14 6. The procedures to follow if there is a complaint regarding
15 the actions of the Department or to request a review of the findings
16 made by the Department during or at the conclusion of the
17 investigation;

18 7. The right of the person to review records filed with the
19 court in the event an action is filed;

20 8. The right of the person to seek legal counsel;

21 9. References to the statutory and regulatory provisions
22 governing child abuse and neglect and how the person may obtain
23 copies of those provisions;

1 10. The process the person may use to acquire visitation with
2 the child if the child is removed from the home; and

3 11. A statement that a failure to appear for court proceedings
4 may result in the termination of the person's parental rights to the
5 child.

6 SECTION 3. This act shall become effective November 1, 2019.

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8 57-1-5298 EK 12/14/18

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1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 HOUSE BILL 2604

By: Echols

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6 AS INTRODUCED

7 An Act relating to children; amending 10A O.S. 2011,
8 Section 1-2-108, as amended by Section 1, Chapter 29,
9 O.S.L. 2015 (10A O.S. Supp. 2018, Section 1-2-108),
10 which relates to the Department of Human Services
11 statewide central registry; directing Department to
12 create a perpetrator registry; specifying date for
13 registry creation; listing contents of registry;
14 requiring notice be given to perpetrator; providing
15 for administrative hearing to review decision;
16 requiring removal if perpetrator poses no risk of
17 harm or threatened harm to children; prescribing
18 confidentiality of registry; authorizing disclosure
19 of registry information to employer or volunteer
20 organization; limiting information for disclosure;
21 directing Department to promulgate rules for
22 registry; and providing an effective date.

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

24 SECTION 1. AMENDATORY 10A O.S. 2011, Section 1-2-108, as
amended by Section 1, Chapter 29, O.S.L. 2015 (10A O.S. Supp. 2018,
Section 1-2-108), is amended to read as follows:

Section 1-2-108 A. There is hereby established within the
Department of Human Services an information system for the
maintenance of all reports of child abuse, sexual abuse, sexual

1 exploitation, and neglect made pursuant to the provisions of the
2 Oklahoma Children's Code.

3 B. The Children and Family Services Division of the Department
4 shall be responsible for maintaining a suitably cross-indexed system
5 of all the reports.

6 C. The records maintained shall contain, but shall not be
7 limited to:

8 1. All information in the written report required by Section 1-
9 2-101 of this title;

10 2. A record of the final disposition of the report including
11 services offered and services accepted;

12 3. The plan for rehabilitative treatment; and

13 4. Any other relevant information.

14 D. Data and information maintained and related to individual
15 cases shall be confidential ~~and shall be made available only~~ except
16 as authorized by state or federal law.

17 E. The ~~Commission for~~ Department of Human Services shall
18 promulgate rules governing the availability of such data and
19 information.

20 F. Rules promulgated by the ~~Commission~~ Department shall
21 encourage cooperation with other states in exchanging reports in
22 order to effect a national registration system.

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1 G. No person shall allow the data and information maintained to
2 be released except as authorized by ~~Chapter VI of the Oklahoma~~
3 ~~Children's Code~~ law.

4 H. Records obtained by the Department shall be maintained by
5 the Department until otherwise provided by law.

6 I. Beginning January 1, 2020, the Department shall create a
7 perpetrator registry which shall contain records of all reports in
8 which allegations of child abuse, sexual abuse, sexual exploitation
9 and neglect made on or after January 1, 2020, pursuant to the
10 Oklahoma Children's Code are determined after investigation to be
11 substantiated.

12 1. The perpetrator registry shall identify the perpetrator of
13 each substantiated report of child abuse, sexual abuse, sexual
14 exploitation or neglect and shall include the name, date of birth,
15 address and other identifying information of the perpetrator. The
16 Department shall notify the perpetrator that his or her information
17 is being added to the perpetrator registry and the perpetrator may
18 request an administrative hearing within thirty (30) days to review
19 the decision. If the hearing officer determines the perpetrator
20 poses no risk of harm or threatened harm to the health or safety of
21 a child, the perpetrator's information shall be removed from the
22 registry.

23 2. Information placed in the perpetrator registry shall be
24 confidential and may only be disclosed to an employer or volunteer

1 organization for purposes of screening an applicant, employee or
2 volunteer who is or who will be coming into contact with children in
3 the course of employment or volunteering. The information subject
4 to disclosure to an employer or volunteer organization is limited
5 to:

- 6 a. confirmation that the applicant, employee or volunteer
7 has a substantiated report,
- 8 b. the date the investigation was completed, and
- 9 c. the type of substantiated report.

10 3. The Department shall promulgate rules necessary to create a
11 perpetrator registry pursuant to this subsection.

12 SECTION 2. This act shall become effective November 1, 2019.

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14 57-1-7305 EK 01/05/19

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1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 HOUSE BILL 2189

By: Brewer

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6 AS INTRODUCED

7 An Act relating to civil procedure; authorizing
8 hearing to determine alternative method of providing
9 testimony; stating requirements for determination
10 hearing; providing standards for determination;
11 providing factors for determination; authorizing use
12 of support persons or advocates; providing
13 requirements for order allowing or disallowing
14 testimony by alternative method; providing right of
15 parties to examine or cross-examine domestic abuse
16 witness; defining term; providing for codification;
17 and providing an effective date.

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

21 SECTION 1. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 2616 of Title 12, unless there
23 is created a duplication in numbering, reads as follows:

24 A. The judge or presiding officer in a criminal proceeding may
order a hearing to determine whether to allow a domestic abuse
witness to testify by an alternative method. The judge or presiding
officer, for good cause shown, shall order the hearing upon motion
of a party or a domestic abuse witness.

1 B. A hearing to determine whether to allow a domestic abuse
2 witness to testify by an alternative method shall be conducted on
3 the record after reasonable notice to all parties, any nonparty
4 movant and any other person the presiding officer specifies. The
5 presence of the domestic abuse witness is not required at the
6 hearing unless ordered by the judge or presiding officer. In
7 conducting the hearing, the judge or presiding officer shall not be
8 bound by rules of evidence except the rules of privilege.

9 C. The judge or presiding officer may allow a domestic abuse
10 witness to testify by an alternative method only in the following
11 situations:

12 1. The domestic abuse witness may testify otherwise than in an
13 open forum in the presence and full view of the finder of fact if
14 the judge or presiding officer finds by clear and convincing
15 evidence that the person would suffer serious emotional trauma that
16 would substantially impair the ability of the person to communicate
17 with the finder of fact if required to testify in the open forum;
18 and

19 2. The domestic abuse witness may testify other than face-to-
20 face with the defendant if the judge or presiding officer finds by
21 clear and convincing evidence that the person would suffer serious
22 emotional trauma that would substantially impair the ability of the
23 person to communicate with the finder of fact if required to be
24 confronted face-to-face by the defendant.

1 D. The domestic abuse witness shall have the right to be
2 accompanied by a support person while giving testimony in the
3 proceeding, but the support person shall not discuss the testimony
4 of the domestic abuse witness with any other witnesses or attempt to
5 prompt or influence the testimony of the domestic abuse witness.
6 The domestic abuse witness may have an advocate appointed by the
7 court to monitor the potential for emotional trauma. The advocate
8 shall be a licensed professional social worker, counselor,
9 psychologist or psychiatrist.

10 E. If the judge or presiding officer determines that a standard
11 under subsection C of this section has been met, the judge or
12 presiding officer shall determine whether to allow the domestic
13 abuse witness to testify by an alternative method and in doing so
14 shall consider:

- 15 1. Alternative methods reasonably available;
- 16 2. Available means for protecting the interests of or reducing
17 emotional trauma to the person without resort to an alternative
18 method;
- 19 3. The nature of the case;
- 20 4. The relative rights of the parties;
- 21 5. The importance of the proposed testimony of the person;
- 22 6. The nature and degree of emotional trauma that the person
23 may suffer if an alternative method is not used; and
- 24 7. Any other relevant factor.

1 F. An order allowing or disallowing a domestic abuse witness to
2 testify by an alternative method shall state the findings of fact
3 and conclusions of law that support the determination of the judge
4 or presiding officer.

5 G. An order allowing a domestic abuse witness to testify by an
6 alternative method shall:

7 1. State the method by which the person is to testify;

8 2. List any individual or category of individuals allowed to be
9 in, or required to be excluded from, the presence of the person
10 during the testimony;

11 3. State any special conditions necessary to facilitate a
12 party's right to examine or cross-examine the person;

13 4. State any condition or limitation upon the participation of
14 individuals present during the testimony of the person; and

15 5. State any other condition necessary for taking or presenting
16 the testimony.

17 H. The alternative method ordered by the judge or presiding
18 officer shall not be more restrictive of the rights of the parties
19 than is necessary under the circumstance to serve the purposes of
20 the order.

21 I. An alternative method ordered by the judge or presiding
22 officer shall permit a full and fair opportunity for examination or
23 cross-examination of the domestic abuse witness by each party.

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J. As used in this section, "alternative method" means a method by which a domestic abuse witness testifies which does not include any of the following:

1. Having the person testify in person in an open forum;

2. Having the person testify in the presence and full view of the finder of act and presiding officer; and

3. Allowing all of the parties to be present, to participate and to view and be viewed by the person.

SECTION 2. This act shall become effective November 1, 2019.

57-1-6917 GRS 12/19/18

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 HOUSE BILL 2091

By: O'Donnell

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6 AS INTRODUCED

7 An Act relating to criminal procedure; amending 22
8 O.S. 2011, Section 1602, which relates to the
9 Domestic Violence Fatality Review Board; increasing
membership of the Board; specifying appointment
requirements; and providing an effective date.

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

13 SECTION 1. AMENDATORY 22 O.S. 2011, Section 1602, is
14 amended to read as follows:

15 Section 1602. A. The Domestic Violence Fatality Review Board
16 shall be composed of ~~eighteen (18)~~ twenty (20) members, or their
17 designees, as follows:

18 1. Eight of the members shall be:

- 19 a. the Chief Medical Examiner,
20 b. a designee of the Attorney General. The designee
21 shall be a person assigned to the Victims Services
22 Unit of the Office of the Attorney General,
23 c. the State Commissioner of Health,

- d. the Chief of Injury Prevention Services of the State Department of Health,
- e. the Director of the Department of Human Services,
- f. the Director of the Oklahoma State Bureau of Investigation,
- g. the Commissioner of the Department of Mental Health and Substance Abuse Services, and
- h. the Executive Director of the Office of Juvenile Affairs; and

2. ~~Ten~~ Twelve of the members shall be appointed by the Attorney General, shall serve for terms of two (2) years and shall be eligible for reappointment. The members shall be persons having training and experience in matters related to domestic violence. The appointed members shall include:

- a. a county sheriff selected from a list of three names submitted by the executive board of the Oklahoma Sheriffs' Association,
- b. a chief of a municipal police department selected from a list of three names submitted by the Oklahoma Association of Chiefs of Police,
- c. an attorney licensed in this state who is in private practice selected from a list of three names submitted by the Board of Governors of the Oklahoma Bar Association,

- 1 d. a district attorney selected from a list of three
2 names submitted by the District Attorneys Council,
3 e. a physician selected from a list of three names
4 submitted by the Oklahoma State Medical Association,
5 f. a physician selected from a list of three names
6 submitted by the Oklahoma Osteopathic Association,
7 g. a nurse selected from a list of three names submitted
8 by the Oklahoma Nurses Association,
9 h. two individuals, at least one of whom shall be a
10 survivor of domestic violence, selected from lists of
11 three names submitted by the Oklahoma Coalition
12 Against Domestic Violence and Sexual Assault, ~~and~~
13 i. a member of the Judiciary selected from a list of
14 three names submitted by the Oklahoma Supreme Court,
15 and
16 j. two individuals, at least one of whom shall be an
17 American Indian survivor of domestic violence,
18 selected from a list of three names submitted by the
19 Native Alliance Against Violence, Oklahoma's tribal
20 coalition against domestic violence and sexual
21 assault.

22 B. Every two (2) years the Board shall elect from among its
23 membership a chair and a vice-chair. The Board shall meet at least
24 quarterly and may meet more frequently as necessary as determined by

1 the chair. Members shall serve without compensation but may be
2 reimbursed for necessary travel out of funds available to the Office
3 of the Attorney General pursuant to the State Travel Reimbursement
4 Act; provided, that the reimbursement shall be paid in the case of
5 state employee members by the agency employing the member.

6 C. With funds appropriated or otherwise available for that
7 purpose, the Office of the Attorney General shall provide
8 administrative assistance and services to the Domestic Violence
9 Fatality Review Board.

10 SECTION 2. This act shall become effective November 1, 2019.

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12 57-1-7072 GRS 12/14/18

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1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 HOUSE BILL 2185

By: Brewer

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6 AS INTRODUCED

7 An Act relating to prisons and reformatories;
8 amending 57 O.S. 2011, Section 571, as last amended
9 by Section 4, Chapter 117, O.S.L. 2018 (57 O.S. Supp.
10 2018, Section 571), which relates to violent crime
11 definition; expanding scope of definition to include
12 certain crimes; and providing an effective date.

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

14 SECTION 1. AMENDATORY 57 O.S. 2011, Section 571, as last
15 amended by Section 4, Chapter 117, O.S.L. 2018 (57 O.S. Supp. 2018,
16 Section 571), is amended to read as follows:

17 Section 571. As used in the Oklahoma Statutes, unless another
18 definition is specified:

19 1. "Capacity" means the actual available bedspace as certified
20 by the State Board of Corrections subject to applicable federal and
21 state laws and the rules and regulations promulgated under such
22 laws;

23 2. "Violent crime" means any of the following felony offenses
24 and any attempts to commit or conspiracy or solicitation to commit
the following crimes:

- 1 a. assault, battery, or assault and battery with a
2 dangerous or deadly weapon, as provided for in
3 Sections 645 and 652 of Title 21 of the Oklahoma
4 Statutes,
- 5 b. assault, battery, or assault and battery with a deadly
6 weapon or by other means likely to produce death or
7 great bodily harm, as provided for in Section 652 of
8 Title 21 of the Oklahoma Statutes,
- 9 c. aggravated assault and battery on a police officer,
10 sheriff, highway patrolman, or any other officer of
11 the law, as provided for in Section 650 of Title 21 of
12 the Oklahoma Statutes,
- 13 d. poisoning with intent to kill, as provided for in
14 Section 651 of Title 21 of the Oklahoma Statutes,
- 15 e. shooting with intent to kill, as provided for in
16 Section 652 of Title 21 of the Oklahoma Statutes,
- 17 f. assault with intent to kill, as provided for in
18 Section 653 of Title 21 of the Oklahoma Statutes,
- 19 g. assault with intent to commit a felony, as provided
20 for in Section 681 of Title 21 of the Oklahoma
21 Statutes,
- 22 h. assaults with a dangerous weapon while masked or
23 disguised, as provided for in Section 1303 of Title 21
24 of the Oklahoma Statutes,

- 1 i. murder in the first degree, as provided for in Section
- 2 701.7 of Title 21 of the Oklahoma Statutes,
- 3 j. murder in the second degree, as provided for in
- 4 Section 701.8 of Title 21 of the Oklahoma Statutes,
- 5 k. manslaughter in the first degree, as provided for in
- 6 Section 711 of Title 21 of the Oklahoma Statutes,
- 7 l. manslaughter in the second degree, as provided for in
- 8 Section 716 of Title 21 of the Oklahoma Statutes,
- 9 m. kidnapping, as provided for in Section 741 of Title 21
- 10 of the Oklahoma Statutes,
- 11 n. burglary in the first degree, as provided for in
- 12 Section 1431 of Title 21 of the Oklahoma Statutes,
- 13 o. burglary with explosives, as provided for in Section
- 14 1441 of Title 21 of the Oklahoma Statutes,
- 15 p. kidnapping for extortion, as provided for in Section
- 16 745 of Title 21 of the Oklahoma Statutes,
- 17 q. maiming, as provided for in Section 751 of Title 21 of
- 18 the Oklahoma Statutes,
- 19 r. robbery, as provided for in Section 791 of Title 21 of
- 20 the Oklahoma Statutes,
- 21 s. robbery in the first degree, as provided for in
- 22 Section 797 et seq. of Title 21 of the Oklahoma
- 23 Statutes,
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- t. robbery in the second degree, as provided for in Section 797 et seq. of Title 21 of the Oklahoma Statutes,
- u. armed robbery, as provided for in Section 801 of Title 21 of the Oklahoma Statutes,
- v. robbery by two or more persons, as provided for in Section 800 of Title 21 of the Oklahoma Statutes,
- w. robbery with dangerous weapon or imitation firearm, as provided for in Section 801 of Title 21 of the Oklahoma Statutes,
- x. child abuse, as provided for in Section 843.5 of Title 21 of the Oklahoma Statutes,
- y. wiring any equipment, vehicle or structure with explosives, as provided for in Section 849 of Title 21 of the Oklahoma Statutes,
- z. forcible sodomy, as provided for in Section 888 of Title 21 of the Oklahoma Statutes,
- aa. rape in the first degree, as provided for in Section 1114 of Title 21 of the Oklahoma Statutes,
- bb. rape in the second degree, as provided for in Section 1114 of Title 21 of the Oklahoma Statutes,
- cc. rape by instrumentation, as provided for in Section 1111.1 of Title 21 of the Oklahoma Statutes,

- 1 dd. lewd or indecent proposition or lewd or indecent act
2 with a child under sixteen (16) years of age, as
3 provided for in Section 1123 of Title 21 of the
4 Oklahoma Statutes,
- 5 ee. use of a firearm or offensive weapon to commit or
6 attempt to commit a felony, as provided for in Section
7 1287 of Title 21 of the Oklahoma Statutes,
- 8 ff. pointing firearms, as provided for in Section 1279 of
9 Title 21 of the Oklahoma Statutes,
- 10 gg. rioting, as provided for in Section 1311 of Title 21
11 of the Oklahoma Statutes,
- 12 hh. inciting to riot, as provided for in Section 1320.2 of
13 Title 21 of the Oklahoma Statutes,
- 14 ii. arson in the first degree, as provided for in Section
15 1401 of Title 21 of the Oklahoma Statutes,
- 16 jj. injuring or burning public buildings, as provided for
17 in Section 349 of Title 21 of the Oklahoma Statutes,
- 18 kk. sabotage, as provided for in Section 1262 of Title 21
19 of the Oklahoma Statutes,
- 20 ll. criminal syndicalism, as provided for in Section 1261
21 of Title 21 of the Oklahoma Statutes,
- 22 mm. extortion, as provided for in Section 1481 of Title 21
23 of the Oklahoma Statutes,
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- 1 nn. obtaining signature by extortion, as provided for in
2 Section 1485 of Title 21 of the Oklahoma Statutes,
3 oo. seizure of a bus, discharging firearm or hurling
4 missile at bus, as provided for in Section 1903 of
5 Title 21 of the Oklahoma Statutes,
6 pp. mistreatment of a mental patient, as provided for in
7 Section 843.1 of Title 21 of the Oklahoma Statutes,
8 qq. using a vehicle to facilitate the discharge of a
9 weapon pursuant to Section 652 of Title 21 of the
10 Oklahoma Statutes,
11 rr. bombing offenses as defined in Section 1767.1 of Title
12 21 of the Oklahoma Statutes,
13 ss. child pornography or aggravated child pornography as
14 defined in Section 1021.2, 1021.3, 1024.1 or 1040.12a
15 of Title 21 of the Oklahoma Statutes,
16 tt. child prostitution as defined in Section 1030 of Title
17 21 of the Oklahoma Statutes,
18 uu. abuse of a vulnerable adult as defined in Section 10-
19 103 of Title 43A of the Oklahoma Statutes who is a
20 resident of a nursing facility,
21 vv. aggravated trafficking as provided for in subsection C
22 of Section 2-415 of Title 63 of the Oklahoma Statutes,
23 ww. aggravated assault and battery upon any person
24 defending another person from assault and battery, as

1 provided for in Section 646 of Title 21 of the
2 Oklahoma Statutes,

3 xx. human trafficking as provided for in Section 748 of
4 Title 21 of the Oklahoma Statutes, ~~or~~

5 yy. terrorism crimes as provided in Section 1268 et seq.
6 of Title 21 of the Oklahoma Statutes, or

7 zz. domestic abuse, domestic assault with a dangerous
8 weapon, domestic assault and battery with a dangerous
9 weapon, domestic assault and battery with a deadly
10 weapon, domestic abuse against a pregnant woman,
11 domestic abuse resulting in great bodily injury,
12 domestic abuse committed in the presence of a child or
13 domestic abuse by strangulation as provided in Section
14 644 of Title 21 of the Oklahoma Statutes.

15 Such offenses shall constitute exceptions to nonviolent offenses
16 pursuant to Article VI, Section 10 of the Oklahoma Constitution.

17 SECTION 2. This act shall become effective November 1, 2019.

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19 57-1-6913 GRS 01/02/19
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