RULEMAKING ACTION:
Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:
Subchapter 1. Function and Structure of the Office of Juvenile Affairs
377:1-1-1. Purpose [AMENDED]
377:1-1-2. Legal Basis [AMENDED]
377:1-1-3. Description of the Office of Juvenile Affairs (OJA) [AMENDED]
377:1-1-5. Board of Juvenile Affairs [AMENDED]
377:1-1-6. Rates and Standards Committee [AMENDED]
377:1-1-7. Legal Base for Rates and Standards Committee [AMENDED]
377:1-1-8. Rates and Standards Committee membership [AMENDED]
377:1-1-9. Conduct of Committee meetings [AMENDED]
377:1-1-10. Public hearing regarding a fixed rate [AMENDED]
377:1-1-11. Executive Director [AMENDED]

SUMMARY:
The proposed change to 377:1-1-1 through 377:1-1-11 were made as a result of HB 2479 (2019) and Executive Order 2020-03. The proposed amendments provide clarity and correctly reference provisions of law.

AUTHORITY:
The Board of Juvenile Affairs, pursuant to 10A O.S. §§ 2-7-101(H)(3) and 2-7-101(I)(1), and 75 O.S. § 302(A)(1).

COMMENT PERIOD:
The comment period will begin on Tuesday, February 16, 2021, and end on Thursday, March 18, 2021. Written comments will be accepted during the comment period at the following address: Office of Juvenile Affairs, Attn: Audrey Rockwell, 3812 N. Santa Fe Ave., Ste. 400, Oklahoma City, OK 73118, or by email at audrey.rockwell@oja.ok.gov.

PUBLIC HEARING:
A Public Hearing will be held at 9:00 a.m. on Friday, March 19, 2021, virtually at https://zoom.us/j/93554446038?pwd=bDZRWfFlenLySjJKbCtHZk80cy8rQT09 Meeting ID: 935 5444 6038 Passcode: 398914 or in person at the OJA State Office, 3812 N. Santa Fe Ave., Ste. 400, Oklahoma City, OK  73118. Persons wishing to make oral comments must sign-in via email for virtual comments audrey.rockwell@oja.ok.gov or at the door by 8:45 a.m. on that day. Each individual will be given an opportunity to make oral comments for a maximum of five (5) minutes.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:
The Office of Juvenile Affairs requests business entities affected by the proposed rules to provide written information to the Office of Juvenile Affairs, within the comment period, in dollar amounts if possible, of the increase in the level of direct services, revenue loss, direct or indirect costs, or other costs, such as fees, reporting, recordkeeping, equipment, construction, labor, or professional costs, expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Office of
Juvenile Affairs, Attn: Audrey Rockwell, 3812 N. Santa Fe Ave., Ste. 400, Oklahoma City, OK 73118, or by email at audrey.rockwell@oja.ok.gov.

**COPIES OF PROPOSED RULES:**
Copies of the proposed rules may be obtained during normal business hours from the Office of Juvenile Affairs, 3812 N. Santa Fe Ave., Ste. 400, Oklahoma City, OK, 73118, or by email at audrey.rockwell@oja.ok.gov. The proposed rules will be available on the OJA website at https://oklahoma.gov/oja.html no later than February 8, 2021.

**RULE IMPACT STATEMENT:**
Pursuant to 75 O.S., § 303(D), a rule impact statement will be prepared and available for review at the Office of Juvenile Affairs, 3812 N. Santa Fe Ave., Ste. 400, Oklahoma City, OK, 73118 beginning on or before February 8, 2021, as well as on the OJA website at https://oklahoma.gov/oja.html.

**CONTACT PERSON:**
Audrey Rockwell, Executive Assistant/Paralegal, (405) 530-2806, or audrey.rockwell@oja.ok.gov
RULE IMPACT STATEMENT

1. A brief description of the purpose of the rule:

Title 377. Office of Juvenile Affairs
Chapter 1. Function and Structure of the Office of Juvenile Affairs
   377:1-1-1. Purpose [AMENDED]
   377:1-1-2. Legal Basis [AMENDED]
   377:1-1-3. Description of the Office of Juvenile Affairs (OJA) [AMENDED]
   377:1-1-5. Board of Juvenile Affairs [AMENDED]
   377:1-1-6. Rates and Standards Committee [AMENDED]
   377:1-1-7. Legal Base for Rates and Standards Committee [AMENDED]
   377:1-1-8. Rates and Standards Committee membership [AMENDED]
   377:1-1-9. Conduct of Committee meetings [AMENDED]
   377:1-1-10. Public hearing regarding a fixed rate [AMENDED]
   377:1-1-11. Executive Director [AMENDED]

Summary: The proposed change to 377:1-1-1 through 377:1-1-11 were made as a result of HB 2479 (2019) and Executive Order 2020-03. The proposed amendments provide clarity and correctly reference provisions of law.

2. A brief description of the classes of persons who most likely will be affected by the proposed rule:

The public, Board of Juvenile Affairs, OJA employees, and OJA youth will be affected by the proposed rule revisions.

3. A brief description of classes of persons who will benefit from the proposed rule:

The public, Board of Juvenile Affairs, OJA employees, and OJA youth will benefit from the proposed rule revisions.

4. A brief description of the probable economic impact of the proposed rule upon the affected classes of persons or political subdivisions, including a listing of all fee changes and, whenever possible, a separate justification for each fee change:

The proposed rule revisions should not have an economic impact on any affected classes.

5. The probable costs and benefits to the agency and to any other agency of the implementation and enforcement of the state proposed rule, the source of revenue to be used for implementation and enforcement of the proposed rule, and any
anticipated effect on state revenues, including a projected net loss or gain in such revenues, if it can be projected by the agency.

The cost of implementation and enforcement of the proposed rule revisions is minimal.

6. **A determination of whether implementation of the proposed rule will have an adverse economic effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act:**

The proposed rule revisions should not have an economic impact on any small business or require their cooperation in implementing or enforcing the rule revisions.

7. **An explanation of the measures the agency has taken to minimize compliance costs and a determination of whether there are less costly or non-regulatory methods or less intrusive methods for achieving the purpose of the proposed rule:**

The proposed rule revisions should not be costly nor require other methods to update the proposed rule revisions.

8. **A determination of the effect of the proposed rule on the public health, safety and environment and, if the proposed rule is designed to reduce significant risks to the public health, safety and environment, an explanation of the nature of the risk and to what extent the proposed rule will reduce the risk:**

The proposed rule revisions have no effect on the public health, safety and environment.

9. **A determination of any detrimental effect on the public health, safety and environment if the proposed rule is not implemented:**

If the proposed rule revisions do not pass, there will be a conflict with state law, which may have an effect on agency business.

10. **The date the rule impact statement was prepared and if modified, the date modified:**

Prepared on February 8, 2021.
Chapter 1 – Function and Structure of the Office of Juvenile Affairs
Subchapter 1

377:1-1-1. Purpose
The purpose of this Chapter is to describe the organizational structure and function of the Office of Juvenile Affairs (OJA). This Chapter indicates the legal bases of the Office of Juvenile Affairs (OJA), identifies OJA divisions and units, and outlines other rules governing the overall operation of the OJA.

377:1-1-2. Legal Basis
The Office of Juvenile Affairs (OJA) operates under the statutory authority of "The Oklahoma Juvenile Code", Title 10A O.S.; § 2-1-101 et seq.

377:1-1-3. Description of the Office of Juvenile Affairs (OJA)
(a) History. The Office of Juvenile Affairs (OJA) was created on July 1, 1995, as a result of legislation enacting the Oklahoma Juvenile Code.
(b) Organization. The Office of Juvenile Affairs consists of programs providing services to juveniles involved in the juvenile justice system and administrative components which provide administrative support.

(1) Office of the Executive Director.
(A) Within the Office of Juvenile Affairs, programs and divisions which report directly to the Executive Director include, but are not limited to, the:
   (i) Office of Public Integrity;
   (ii) Division of the Advocate Defender; and
   (iii) Office of General Counsel Service;
(B) The Executive Director of OJA is designated by the Governor as the Interstate Compact Liaison.
(C) Additional responsibilities of the Executive Director are listed in OAC 377:1-1-11.
(D) The Executive Director shall establish divisions within OJA in addition to those required by statute and law 10A O.S. § 2-7-202 and may employ staff as necessary to perform the duties of the Office of Juvenile Affairs as authorized by statute. Organizational charts are available upon request from the Office of the Executive Director.

(2) Division of Community-based Youth Services. The Division of Community-based Youth Services operates under the authority of 10A O.S., §§ 2-7-202, 2-7-302, 2-7-303, 2-7-305 and 2-7-306.

(3) Advocate Defender Division. The Advocate Defender Division is a Division of the OJA established by 10A O.S., § 2-7-302. Compliance with Oklahoma statutes is obtained by assignment of the Advocate Defenders to the OJA institutions. The Division of Advocate Defender shall be separate and apart from the Office of General Counsel.

(4) Support Services Division. The Support Services Division shall provide centralized support function for the Office of Juvenile Affairs.

(5) Financial Services Division. The Financial Services Division shall provide the centralized accounting, procurement, reporting, and budgeting for OJA.
Institutional Services Division. The Institutional Services Division shall be responsible for all secure institutional services.

Juvenile Services Division. The Juvenile Services Division shall be responsible for intake, probation and parole services, supervision and placement of juveniles.

Office of the Parole Board. The Office of the Parole Board shall have responsibilities as set forth in 377:5.

Purpose/mission. The purpose of the Office of Juvenile Affairs as stated in Title 10A O.S., § 2-1-102, is to promote the public safety and reduce delinquency. To execute the purpose of the statutes, OJA has developed its mission to include:

(1) protection of the public from juvenile offenders;
(2) prevention of juvenile delinquency;
(3) implementation of programs ensuring accountability of juveniles for their behavior; and
(4) involvement of the community in creating and implementing solutions to juvenile delinquency and establishing individual accountability.

377:1-1-5. Board of Juvenile Affairs
(a) Composition. Title 10A O.S., § 2-7-101, authorizes the Board of Juvenile Affairs (Board) as the governing body for the Office of Juvenile Affairs. The Board shall consist of seven (7) members appointed by the Governor with the advice and consent of the Senate in accordance with 10A O.S. §2-7-101. The Board of Juvenile Affairs (Board), per 10A O.S. § 2-7-101, is the governing body for the Office of Juvenile AffairsOJA. The Board consists of nine (9) members; five (5) members appointed by the Governor, two (2) members appointed by the President Pro-Tempore of the Senate, and two (2) members appointed by the Speaker of the House, all members serve at the pleasure of their appointing authority.

(b) Meetings. Regularly scheduled meetings of the Board shall be held at places, dates, and times fixed by the Board and after appropriate notice. Special meetings may be called by the Chair or by five (5) members of the Board by delivery of written notice to each member of the Board. Emergency meetings of the Board may be called as provided by Oklahoma statutes.

(1) Any member may waive notice of any meeting. The attendance of a member at a meeting shall constitute waiver of notice of such meeting except where the member attends for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called or convened.

(2) All meetings, including executive sessions, shall be conducted in accordance with the provisions of the Open Meeting Act.

(c) Voting. A majority of members serving on the Board shall constitute a quorum.

(1) The acts of the majority of the members present at a meeting at which a quorum is present shall be the acts of the Board except that a vote of not less than four (4) members of the Board shall be required to amend these rules.

(2) A member may disqualify himself or herself from a vote at any time and without explanation. A member who disqualifies himself or herself from a vote shall be considered to be not present for purposes of that vote.

(d) Election of officers. At the first meeting of each calendar year, the Board shall elect one of its members to serve as Chair and another of its members to serve as Vice-chair. The Chair or and Vice-chair shall be elected in accordance with 10A O.S. § 2-7-101(E), and shall hold office
until his or her successor has been duly elected or until his or her upon death, resignation, or removal.

(e) Vacancies. A vacancy in the elected position of Chair or Vice-chair because of death, resignation, removal, disqualification, or otherwise, may be filled by the Board for the unexpired portion of the term of the position.

(f) Duties of the position of Chair and Vice-chair. The Chair, or in his or her the Chair’s absence, the Vice-chair, shall preside at all meetings of the Board, including executive sessions. The Chair, or Vice-chair as the case may be, shall be the final authority on all procedural issues, and may, when appropriate, refer to and follow the recommendations of the legal counsel for the Office of Juvenile Affairs OJA or "Robert's Rules of Order" to resolve a procedural issue.

(1) The Chair, within two (2) weeks of a member's new appointment, shall:
   (A) brief the member of the Board regarding the duties and responsibilities of the Board and its members;
   (B) provide the new member a copy of the statutes pertinent to the Board and its duties;
   (C) provide a copy of the monthly operating budgets of the Office of Juvenile Affairs for the preceding twelve months;
   (D) provide a copy of the rules under which functions and operates; and
   (E) provide such other information as is necessary to assure that the new member is advised of his or her duties and responsibilities.

(2) The Chair may delegate the briefing described in paragraph (1) of this subsection in whole or in part to the Executive Director of the Office of Juvenile Affairs or a managing officer of that agency, but the responsibility for its accomplishment shall remain with the Chair.

(g) Responsibilities. The purpose of the Board of Juvenile Affairs, in addition to the duties required by 10A O.S. §§ 2-3-103, 2-4-103, 2-7-101, 2-7-201, 2-7-305(D), 2-7-306, 2-7-608, 2-7-613, 2-7-614, 2-7-616, 2-7-704, and 2-8-112, may: is to act as the governing board for the Office of Juvenile Affairs and to implement and direct the mandates of the Oklahoma Legislature with respect to the custody, care, and supervision of juveniles adjudicated to be delinquent or in need of supervision or persons sentenced as youthful offenders. The Oklahoma Juvenile Code, Title 10A O.S. § 2-1-101 et seq., and other provisions of law related to children and youth gives the Board the responsibility for:

   (1) promulgating rules for the Office of Juvenile Affairs and for its own governance;
   (2) adopting an official seal for the Office of Juvenile Affairs;
   (3) appointing and setting the salary of the Executive Director of the Office of Juvenile Affairs;
   (4) reviewing and approving OJA's budget request to the Governor;
   (5) assisting OJA in conducting regular reviews and planning activities related to the goals, objectives, priorities, and policies of the Office of Juvenile Affairs;
   (6) providing a public forum for receiving comments and disseminating information to the public regarding the goals, objectives, priorities, and policies at least quarterly;
   (7) adopting nonbinding resolutions requesting action by OJA in response to comments from the public or upon the Board's own initiative;
(8) establishing OJA contracting procedures and guidelines for rates of payment for services provided by contract; provided the Board may not increase payment rates during the time the Legislature is not in session;

(9) serving as the rulemaking body for the Office of Juvenile Affairs, including promulgating rules which implement the duties and responsibilities of the Office of Juvenile Affairs pursuant to the Oklahoma Juvenile Code;

(10) developing performance standards for programs implemented by the Office of Juvenile Affairs, either directly or by contract;

(11)(3) if necessary and in accordance with 10A O.S. § 2-7-201(G), designate an interim or acting Executive Director appointing the Executive Director, or in the event of a vacancy, designating an interim or acting Executive Director, including the Chief of Staff of the Office of Juvenile Affairs, until a new and permanent Executive Director is appointed;

(12) establishing fee schedules;

(13) advising OJA with respect to real estate leases;

(14) approving criteria for designation of organizations as "Youth Services Agencies";

(15) establishing an administrative hearing and appeal process for denials of "Youth Service Agency" designation;

(16)(4) reviewing annually the OJA report (OJA Annual Report) which analyzes and evaluates the effectiveness of OJA programs and services;

(17) reviewing annually the OJA report (OJA Annual Report) which analyzes and evaluates the effectiveness of the Youthful Offender Act;

(18)(5) promulgating rules for OJA the Office of Juvenile Affairs to obtain national criminal history records searches for personnel working with or around juveniles in OJA the Office of Juvenile Affairs' institutions and Office of Juvenile Affairs' contracted operated facilities, pursuant to 10 O.S. § 404.1(A)(14);

(19) promulgating rules, outlining policies and procedures governing the operation of facilities operated by or through contract with OJA;

(20) promulgating rules defining contraband for purposes of inspection;

(21) promulgating rules governing the use of mechanical restraints in institutions and other facilities operated by or through contract with the Office of Juvenile Affairs;

(22)(6) receiving and reviewing institutional inspection reports of the State Fire Marshall and Commissioner of Public Health;

(23)(7) establishing standards for regimented juvenile training programs;

(24) establishing the proposal submission and education procedures and criteria for the implementation of the Delinquency and Youth Gang Intervention and Deterrence Act;

(25) promulgating rules necessary for the implementation of the "Juvenile Offender Victim Restitution Work Program";

(26) adopting rules as required to implement the Serious and Habitual Juvenile Offender Program and Juvenile Justice Information System;

(27)(8) establishing certification standards for municipal juvenile facilities for temporary detention;

(28) promulgating standards for certification of juvenile detention facilities;

(29) developing, adopting, and implementing the "State Plan for the Establishment of Juvenile Detention Services";

(30) establishing procedures for the letting of contracts or grants for juvenile detention services or facilities;
(31)(9) approving a form for the statistical reporting of detention of persons under the age of 18;
(32) establishing standards for the certification of detention services;
(33) with the State Department of Health, establishing standards for certification of jails, adult lock-ups and adult detention facilities used to detain juveniles;
(34) establishing guidelines and procedures for Juvenile Bureaus to ensure uniformity in the performance of the Juvenile Bureau's statutory duties;
(35) promulgating rules and forms necessary for the implementation of the juvenile sex offender registry;
(36) establishing Foster Care licensing standards for Office of Juvenile Affairs' foster home placements;
(37) promulgating rules for the expansion for criminal records searches or foster care eligibility assessments beyond the records searches conducted by the Oklahoma State Bureau of Investigation;
(38) Designating Youth Services Agencies;
(39) Adopting the State Plan for Youth Services Agencies;
(40) promulgating rules as necessary for the establishment and operation of a charter school pursuant to 10A O.S. § 2-7-616; and
(41) promulgating rules, creating policies and procedures governing the establishment of detention beds, pursuant to 10A O.S. § 2-7-608

377:1-1-6. Rates and Standards Committee
The Board of Juvenile Affairs (Board) is the official rate-setting body for the programs administered by the Office of Juvenile Affairs (OJA). The Rates and Standards Committee (Committee) is responsible for making recommendations to the Board regarding fixed fiscal rates and standards for service contracts entered into by OJA. The Committee's purpose is to advise and make recommendations to the Board.

377:1-1-7. Legal Base for Rates and Standards Committee
The legal base for establishing fixed and uniform rates is found at 10A O.S. 2-7-101(F)(6) and 74 O.S. § 85.7(A)(6), 74 O.S. § 85.7(A)(11)(d) and (e) (Oklahoma Central Purchasing Act), and 10A O.S., § 2-7-101(F)(6)(H)(7).

377:1-1-8. Rates and Standards Committee membership
The Chairman of the Rates and Standards Committee shall be a member of the Board of Juvenile Affairs (Board) and shall be appointed by the Board. In addition to the Chair, the Committee shall be comprised of the Board's Finance Sub-Committee Chair, and the Executive Director of OJA, or his/her designee.

377:1-1-9. Conduct of Committee meetings
(a) Committee meetings are called by either the Chairman, Executive Director, or Board of Juvenile Affairs. A majority of the Committee constitutes a quorum. Recommendations of the Committee are approved by a majority of the members present and voting.
(b) During a meeting in which the Committee intends to vote on a rate setting recommendation for the Board of Juvenile Affairs, the public, vendors, or OJA staff shall provide evidence to support rate recommendations.

(c) A party requesting a rate shall supply the following information and data to justify the proposed rate recommendation:

1. A description of the program or service, including the target population and an annual estimate of the number of juveniles to whom the service will be provided;
2. Any historical rate information regarding previous rates established for the program, or rates for similar programs or services if no rate exists;
3. An explanation and cite and explain any Federal, State, and other regulations and standards which apply;
4. The rate being proposed, a summary of the program and cost variables included in the rate, and a program and fiscal impact statement on the juvenile justice system;
5. The operational budget and narrative justification for each budget category, including the methodology and cost computations used to arrive at the proposed rate; and
6. An estimated total cost of the service.

(d) If the Committee determines additional information is needed, the Chair may recess the meeting until a later date to allow interested parties or staff additional time to secure the information.

(e) In making its recommendations, the Committee shall consider any relevant data which is consistent with applicable state plans, OJA all relevant administrative rules, OJA policies and procedures, and statutory provisions.

(f) Once the Committee establishes a recommendation, notification of the proposed rates and standards along with any supporting documentation will be sent to the Office of Management and Enterprise Services (OMES). The Chair shall place the item on the agenda of a Board of Juvenile Affairs meeting for a public hearing to set the rate, after proposed rates and standards have been approved by OMES. The Office of Management and Enterprise Services must be given 30 days advance notice of the public hearing. In addition to the Hearing agenda, the Committee shall submit to the Office of Management and Enterprise Services documentation and other materials which support the proposed rate. The public hearing may be held during any Board meeting.

377:1-1-10. Public hearing regarding a fixed rate

(a) Any comments from OMES the Director of the Office of Management and Enterprise Services, whether made in person or in writing, are included in the minutes of the Board meeting.

(b) During the Board meeting, the Chair of the Rates and Standards Committee, or a designee, shall present the proposed rate and provide the Committee's recommendation to the Board.

(c) After the Chair's presentation, interested parties shall be given the opportunity for public comments regarding the proposed rates may present further testimony. Each rate must be openly and separately discussed before the Board's vote. The Board may vote to approve, deny, or modify the recommendation of the Rates and Standards Committee.

377:1-1-11. Executive Director

(a) The OJA Executive Director of the Office of Juvenile Affairs shall be appointed by the Board of Juvenile Affairs and shall report agency business directly to the
Board. As the OJA administrator of the Office of Juvenile Affairs, the Executive Director is responsible for supervising OJA activities and establishing internal policy and procedures for the administration of OJA of the Office of Juvenile Affairs.

(b) The Executive Director shall be responsible for selecting staff or contracting with personnel capable of carrying out OJA's mission, goals, and statutory requirements.

c) The Executive Director shall have the authority to assume all duties and responsibilities of the Chief of Staff of OJA.

If a court of competent jurisdiction finds any rule or part of a rule in this Title to be unenforceable, the finding does not impair or invalidate the remaining rules in this Title. The remaining rules are valid and enforceable to the fullest extent of the law.

All activities, administrative and operational, within the Office of Juvenile Affairs OJA shall be performed in a manner resulting in an audit trail; consisting of dual controls; and complying with Generally Accepted Accounting Principles (GAAP), Governmental Accounting Standards Board (GASB), and other fundamentals of sound financial management.