

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 HOUSE BILL 1510

By: Virgin

4
5
6 AS INTRODUCED

7 An Act relating to children and juvenile code;
8 amending 10A O.S. 2011, Section 1-1-105, as last
9 amended by Section 3, Chapter 353, O.S.L. 2012 (10A
10 O.S. Supp. 2014, Section 1-1-105), which relates to
11 definitions; modifying certain definition; amending
12 10A O.S. 2011, Section 1-2-105, as amended by Section
13 2, Chapter 355, O.S.L. 2014 (10A O.S. Supp. 2014,
14 Section 1-2-105), which relates to child abuse
15 investigations; deleting reference to certain
16 disciplinary actions; and providing an effective
17 date.

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

19 SECTION 1. AMENDATORY 10A O.S. 2011, Section 1-1-105, as
20 last amended by Section 3, Chapter 353, O.S.L. 2012 (10A O.S. Supp.
21 2014, Section 1-1-105), is amended to read as follows:

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

24 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 or failure to protect
8 from harm or threatened harm to the health, safety, or welfare of a
9 child by a person responsible for the child's health, safety, or
10 welfare, including but not limited to nonaccidental physical or
11 mental injury, sexual abuse, or sexual exploitation. Provided,
12 however, that nothing contained in this act shall prohibit any
13 parent from using ordinary force as a means of discipline ~~including,~~
14 ~~but not limited 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, or encouraging a child to engage
3 in prostitution, as defined by law, by a person
4 responsible for the health, safety, or welfare of a
5 child, or allowing, permitting, encouraging, or
6 engaging in the lewd, obscene, or pornographic, as
7 defined by law, photographing, filming, or depicting
8 of a child in those acts by a person responsible for
9 the health, safety, and welfare of the child;

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

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

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

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

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

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

- 7 a. nonurban centers in districts with child populations
8 that are less than sixty thousand (60,000), and
- 9 b. midlevel nonurban centers in districts with child
10 populations equal to or greater than sixty thousand
11 (60,000), but not including Oklahoma and Tulsa
12 counties;

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

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

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

21 12. "Community-based services" or "community-based programs"
22 means services or programs which maintain community participation or
23 supervision in their planning, operation, and evaluation.

24 Community-based services and programs may include, but are not

1 limited to, emergency shelter, crisis intervention, group work, case
2 supervision, job placement, recruitment and training of volunteers,
3 consultation, medical, educational, home-based services, vocational,
4 social, preventive and psychological guidance, training, counseling,
5 early intervention and diversionary substance abuse treatment,
6 sexual abuse treatment, transitional living, independent living, and
7 other related services and programs;

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

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

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

24

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

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

10 18. "Department" means the Department of Human Services;

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

14 20. "Deprived child" means a child:

- 15 a. who is for any reason destitute, homeless, or
16 abandoned,
- 17 b. who does not have the proper parental care or
18 guardianship,
- 19 c. who has been abused, neglected, or is dependent,
- 20 d. whose home is an unfit place for the child by reason
21 of depravity on the part of the parent or legal
22 guardian of the child, or other person responsible for
23 the health or welfare of the child,

- 1 e. who is a child in need of special care and treatment
2 because of the child's physical or mental condition,
3 and the child's parents, legal guardian, or other
4 custodian is unable or willfully fails to provide such
5 special care and treatment. As used in this
6 paragraph, a child in need of special care and
7 treatment includes, but is not limited to, a child who
8 at birth tests positive for alcohol or a controlled
9 dangerous substance and who, pursuant to a drug or
10 alcohol screen of the child and an assessment of the
11 parent, is determined to be at risk of harm or
12 threatened harm to the health or safety of a child,
- 13 f. who is a child with a disability deprived of the
14 nutrition necessary to sustain life or of the medical
15 treatment necessary to remedy or relieve a life-
16 threatening medical condition in order to cause or
17 allow the death of the child if such nutrition or
18 medical treatment is generally provided to similarly
19 situated children without a disability or children
20 with disabilities; provided that no medical treatment
21 shall be necessary if, in the reasonable medical
22 judgment of the attending physician, such treatment
23 would be futile in saving the life of the child,
24

- 1 g. who, due to improper parental care and guardianship,
2 is absent from school as specified in Section 10-106
3 of Title 70 of the Oklahoma Statutes, if the child is
4 subject to compulsory school attendance,
5 h. whose parent, legal guardian or custodian for good
6 cause desires to be relieved of custody,
7 i. who has been born to a parent whose parental rights to
8 another child have been involuntarily terminated by
9 the court and the conditions which led to the making
10 of the finding, which resulted in the termination of
11 the parental rights of the parent to the other child,
12 have not been corrected, or
13 j. whose parent, legal guardian, or custodian has
14 subjected another child to abuse or neglect or has
15 allowed another child to be subjected to abuse or
16 neglect and is currently a respondent in a deprived
17 proceeding.

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

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

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

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

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

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

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

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

15 27. "Foster parent eligibility assessment" includes a criminal
16 background investigation including, but not limited to, a national
17 criminal history records search based upon the submission of
18 fingerprints, home assessments, and any other assessment required by
19 the Department of Human Services, the Office of Juvenile Affairs, or
20 any child-placing agency pursuant to the provisions of the Oklahoma
21 Child Care Facilities Licensing Act;

22 28. "Guardian ad litem" means a person appointed by the court
23 pursuant to the provisions of Section 1-4-306 of this title having
24 those duties and responsibilities as set forth in that section. The

1 term "guardian ad litem" shall refer to a court-appointed special
2 advocate as well as to any other person appointed pursuant to the
3 provisions of Section 1-4-306 of this title to serve as a guardian
4 ad litem;

5 29. "Guardian ad litem of the estate of the child" means a
6 person appointed by the court to protect the property interests of a
7 child pursuant to Section ~~1-8-109~~ 1-8-108 of this title;

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

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

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

- 20 a. a substantial risk of death,
- 21 b. extreme physical pain,
- 22 c. protracted disfigurement,
- 23 d. a loss or impairment of the function of a body member,
- 24 organ, or mental faculty,

- e. an injury to an internal or external organ or the body,
- f. a bone fracture,
- g. sexual abuse or sexual exploitation,
- h. chronic abuse including, but not limited to, physical, emotional, or sexual abuse, or sexual exploitation which is repeated or continuing,
- i. torture that includes, but is not limited to, inflicting, participating in or assisting in inflicting intense physical or emotional pain upon a child repeatedly over a period of time for the purpose of coercing or terrorizing a child or for the purpose of satisfying the craven, cruel, or prurient desires of the perpetrator or another person, or
- j. any other similar aggravated circumstance;

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

to:

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

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

6 d. any other similar aggravating circumstance;

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

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

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

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

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

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

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

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

12 (1) "Substantiated" means the Department has
13 determined, after an investigation of a report of
14 child abuse or neglect and based upon some
15 credible evidence, that child abuse or neglect
16 has occurred. When child abuse or neglect is
17 substantiated, the Department may recommend:

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

21 (b) child abuse and neglect prevention and
22 intervention-related services for the child,
23 parents or persons responsible for the care
24

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

3 (2) "Unsubstantiated - Services recommended" means
4 the Department has determined, after an
5 investigation of a report of child abuse or
6 neglect, that insufficient evidence exists to
7 fully determine whether child abuse or neglect
8 has occurred. If child abuse or neglect is
9 unsubstantiated, the Department may recommend,
10 when determined to be necessary, that the parents
11 or persons responsible for the care of the child
12 obtain child abuse and neglect prevention- and
13 intervention-related services, or

14 (3) "Ruled out" means a report in which a child
15 protective services specialist has determined,
16 after an investigation of a report of child abuse
17 or neglect, that no child abuse or neglect has
18 occurred;

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

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

23 41. "Kinship relation" or "kinship relationship" means
24 relatives, stepparents, or other responsible adults who have a bond

1 or tie with a child and/or to whom has been ascribed a family
2 relationship role with the child's parents or the child; provided,
3 however, in cases where the Indian Child Welfare Act applies, the
4 definitions contained in 25 U.S.C., Section 1903 shall control;

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

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

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

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

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

24 47. "Neglect" means:

- 1 a. the failure or omission to provide any of the
2 following:
- 3 (1) adequate nurturance and affection, food,
4 clothing, shelter, sanitation, hygiene, or
5 appropriate education,
 - 6 (2) medical, dental, or behavioral health care,
 - 7 (3) supervision or appropriate caretakers, or
 - 8 (4) special care made necessary by the physical or
9 mental condition of the child,
- 10 b. the failure or omission to protect a child from
11 exposure to any of the following:
- 12 (1) the use, possession, sale, or manufacture of
13 illegal drugs,
 - 14 (2) illegal activities, or
 - 15 (3) sexual acts or materials that are not age-
16 appropriate, or
- 17 c. abandonment.

18 Nothing in this paragraph shall be construed to mean a child is
19 abused or neglected for the sole reason the parent, legal guardian
20 or person having custody or control of a child, in good faith,
21 selects and depends upon spiritual means alone through prayer, in
22 accordance with the tenets and practice of a recognized church or
23 religious denomination, for the treatment or cure of disease or
24 remedial care of such child. Nothing contained in this paragraph

1 shall prevent a court from immediately assuming custody of a child,
2 pursuant to the Oklahoma Children's Code, and ordering whatever
3 action may be necessary, including medical treatment, to protect the
4 child's health or welfare;

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

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

11 50. "Permanent guardianship" means a judicially created
12 relationship between a child, a kinship relation of the child, or
13 other adult established pursuant to the provisions of Section 1-4-
14 709 of this title;

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

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

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

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

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

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

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

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

21 59. "Safety analysis" means action taken by the Department in
22 response to a report of alleged child abuse or neglect that may
23 include an assessment or investigation based upon an analysis of the
24

1 information received according to priority guidelines and other
2 criteria adopted by the Department;

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

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

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

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

- 17 a. has been certified by the Developmental Disabilities
18 Services Division of the Department of Human Services,
19 b. is monitored by the Division, and
20 c. is funded through the Home- and Community-Based Waiver
21 Services Program administered by the Division;

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

24

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

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

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

19 SECTION 2. AMENDATORY 10A O.S. 2011, Section 1-2-105, as
20 amended by Section 2, Chapter 355, O.S.L. 2014 (10A O.S. Supp. 2014,
21 Section 1-2-105), is amended to read as follows:

22 Section 1-2-105. A. 1. Any county office of the Department of
23 Human Services receiving a child abuse or neglect report shall
24 promptly respond to the report by initiating an investigation of the

1 report or an assessment of the family in accordance with priority
2 guidelines established by the Department. The Department may
3 prioritize reports of alleged child abuse or neglect based on the
4 severity and immediacy of the alleged harm to the child. The
5 Department shall adopt a priority system pursuant to rules
6 promulgated by the Department. The primary purpose of the
7 investigation or assessment shall be the protection of the child.
8 For investigations or assessments, the Department shall give special
9 consideration to the risks of any minor, including a child with a
10 disability, who is unable to communicate effectively about abuse,
11 neglect or other safety threat or who is in a vulnerable position
12 due to the inability to communicate effectively.

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

20 B. 1. The investigation or assessment shall include a visit to
21 the home of the child, unless there is reason to believe that there
22 is an extreme safety risk to the child or worker or it appears that
23 the referral has been made in bad faith. The visit shall include an
24 interview with and examination of the subject child and may be

1 conducted at any reasonable time and at any place including, but not
2 limited to, the child's school. The Department shall notify the
3 person responsible for the health, safety, and welfare of the child
4 that the child has been interviewed at a school. The investigation
5 or assessment may include an interview with the parents of the child
6 or any other person responsible for the health, safety, or welfare
7 of the child and an interview with and examination of any child in
8 the home.

9 2. The investigation or assessment may include a medical,
10 psychological, or psychiatric examination of any child in the home.
11 If admission to the home, school, or any place where the child may
12 be located cannot be obtained, then the district court having
13 jurisdiction, upon application by the district attorney and upon
14 cause shown, shall order the person responsible for the health,
15 safety, or welfare of the child, or the person in charge of any
16 place where the child may be located, to allow entrance for the
17 interview, the examination, and the investigation or assessment. If
18 the person responsible for the health, safety, or welfare of the
19 child does not consent to a medical, psychological, or psychiatric
20 examination of the child that is requested by the Department, the
21 district court having jurisdiction, upon application by the district
22 attorney and upon cause shown, shall order the examination to be
23 made at the times and places designated by the court.

24

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

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

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

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

23 5. The investigation of a report of sexual abuse or serious
24 physical abuse or both sexual abuse and serious physical abuse shall

1 be conducted, when appropriate and possible, using a
2 multidisciplinary team approach as provided by Section 1-9-102 of
3 this title. Law enforcement and the Department shall exchange
4 investigation information.

5 C. 1. Every physician, surgeon, or other health care provider
6 making a report of abuse or neglect as required by this section or
7 examining a child to determine the likelihood of abuse or neglect
8 and every hospital or related institution in which the child was
9 examined or treated shall provide copies of the results of the
10 examination or copies of the examination on which the report was
11 based and any other clinical notes, x-rays, photographs, and other
12 previous or current records relevant to the case to law enforcement
13 officers conducting a criminal investigation into the case and to
14 employees of the Department conducting an assessment or
15 investigation of alleged abuse or neglect in the case.

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

22 D. If, before the assessment or investigation is complete, the
23 Department determines that immediate removal of the child is
24

1 necessary to protect the child from further abuse or neglect, the
2 Department shall recommend that the child be taken into custody.

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

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

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

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

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

14 I. Child Welfare Services, in collaboration with the
15 Developmental Disabilities Services Division, shall implement a
16 protocol to be used in cases where the subject child is a child with
17 a disability who has complex medical needs, and the protocol shall
18 include, but not be limited to: resource coordination, medical
19 consultation or medical evaluation, when needed.

20 SECTION 3. This act shall become effective November 1, 2015.

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22 55-1-5698 GRS 01/04/15

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