

ENROLLED HOUSE
BILL NO. 1993

By: Seikel of the House

and

Cain and Williams
(Penny) of the Senate

An act relating to child abuse; creating the Oklahoma Child Abuse Reporting and Prevention Act; providing for later enacted statutes; amending 21 O.S. 1991, Sections 845, as amended by Section 1, Chapter 265, O.S.L. 1992, 846, as last amended by Section 1, Chapter 324, O.S.L. 1994, 846.1, 847, 848 and 843 (21 O.S. Supp. 1994, Sections 845 and 846), and 10 O.S. 1991, Section 1135, which relate to children and child abuse; modifying and clarifying policy; modifying and adding terms; modifying reporting requirements; requiring good faith reporting; requiring reporting; making such reporting individual; prohibiting certain interference with reporting requirements; prohibiting certain other actions affecting reporting requirements; providing exceptions; providing for damages and fees; authorizing certain internal reporting procedures; adding to list of copies to be provided; providing for written report; prohibiting certain actions; making certain actions unlawful; modifying procedures; providing for false and frivolous reports; providing for inspections and priorities; providing for certain criminal investigations; authorizing certain penalties for false accusations; providing for payment of certain fees; adding to list of persons required to report; specifying procedures; authorizing priorities; providing for primary purpose; providing for content of investigations; authorizing certain access to records; authorizing appointment of attorneys for certain persons; requiring notice; providing for multidisciplinary approach for investigation; providing for removal of child in certain situations; requiring certain written reports and referrals; authorizing temporary restraining orders; providing for confidentiality of certain records and reports; specifying penalty; requiring certain summaries; providing for information concerning procedures for removal and other departmental procedures; providing for certain rights; authorizing release of certain information to certain persons; requiring placement of abuse information in child's medical file; requiring forwarding of certain child abuse report summaries; providing for contents; requiring certain procedures for access; requiring destruction of certain records; making certain actions unlawful; providing for certain forms;

providing for certain orders; providing for certain reports; providing for notice; specifying rights; providing for transfer of certain records; providing for certain summaries; providing for multidisciplinary teams; providing for purpose, composition and duties; authorizing certain investigation; providing for construction of section; adding to information which may not be excluded; providing exceptions; providing for a child abuse registry; providing for contents; providing for rules; specifying penalties; providing for confidentiality; providing for legal representation; providing for fees; requiring access to reports; authorizing court-appointed special advocates; requiring appointment of attorneys for certain children; providing for duties; providing for fees; requiring payment of certain costs; providing for determination of costs and ability to pay; requiring payment for counseling; expanding child endangerment statute; requiring best interests of child to be paramount; providing for jurisdiction of Department of Human Services to provide for appropriate placement in certain instances; amending 10 O.S. 1991, Section 1117, as amended by Section 2, Chapter 15, O.S.L. 1994 (10 O.S. Supp. 1994, Section 1117), which relates to persons or agencies having jurisdiction; providing for jurisdiction of Department of Human Services to provide for appropriate placement; amending Section 3, Chapter 306, O.S.L. 1993 (10 O.S. Supp. 1994, Section 1125.2A), which relates to confidential records; expanding exceptions; requiring confidentiality; providing penalty; amending 10 O.S. 1991, Section 1211, as amended by Section 4, Chapter 290, O.S.L. 1993 (10 O.S. Supp. 1994, Section 1211), which relates to training and education; requiring additional governmental and authorized agencies and persons to have certain education and training; providing for certain procedures and rules; providing for codification; providing for recodification; 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 7101 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. Chapter 71 of Title 10 of the Oklahoma Statutes shall be known and may be cited as the "Oklahoma Child Abuse Reporting and Prevention Act".

B. All statutes hereinafter enacted and codified in Chapter 71 of Title 10 of the Oklahoma Statutes shall be considered and deemed part of the Oklahoma Child Abuse Reporting and Prevention Act.

SECTION 2. AMENDATORY 21 O.S. 1991, Section 845, as amended by Section 1, Chapter 265, O.S.L. 1992 (21 O.S. Supp. 1994, Section 845), is amended to read as follows:

Section 845. A. 1. It is the policy of this state to provide for the protection of children who have had physical injury inflicted upon them and who, in the absence of appropriate reports concerning their condition and circumstances, may be further threatened by the conduct of persons responsible for the care and protection of such children.

2. It is the policy of this state that in investigating allegations of child abuse and neglect, in any necessary removal of a child from the home, in placements of a child required pursuant to the Oklahoma Child Abuse Reporting and Prevention Act or in any administrative or judicial proceeding held pursuant to the provisions of the Oklahoma Child Abuse Reporting and Prevention Act, the best interests of the child shall be of paramount consideration.

B. As used in ~~Sections 846 through 848 of this title~~ the Oklahoma Child Abuse Reporting and Prevention Act:

1. "Abuse and neglect" means harm or threatened harm to a child's health or welfare by a person responsible for the child's health or welfare;

2. "Harm or threatened harm to a child's health or welfare" includes but is not limited to nonaccidental physical or mental injury; sexual abuse~~;~~ sexual exploitation~~;~~ or negligent treatment or maltreatment including but not limited to the failure or omission to provide adequate food, clothing, shelter, or medical care ~~except as provided for in Section 846 of this title~~ or protection from harm or threatened harm;

3. "Child" means a person under the age of eighteen (18) years;

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

5. "Sexual abuse" includes but is not limited to rape, incest and lewd or indecent acts or proposals, as defined by law, by a person responsible for the child's health or welfare; ~~and~~

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

7. "Multidisciplinary personnel" means any team established pursuant to Section 10 of this act of three or more persons who are trained in the prevention, identification, investigation, prosecution and treatment of child physical and sexual abuse cases and who are qualified to facilitate a broad range of interventions and services related to child abuse;

8. "Ruled out" means a report which is determined by a child protective services worker:

a. to be false,

b. to be unfounded,

c. to be inherently improbable,

d. to involve an accidental injury where neglect was not a factor, or

e. as not constituting child abuse or neglect;

9. "Confirmed report" means a report which is determined by a child protective services worker, based upon some credible evidence, to constitute child abuse or neglect;

10. "Uncertain report" means a report which is not ruled out by a child protective services worker, but which has inconclusive findings and for which there is insufficient evidence to determine whether child abuse or neglect has occurred;

11. "Child protective services worker" means a person employed by the Department of Human Services with sufficient experience or training as determined by the Department in child abuse prevention and identification;

12. "Department" means the Department of Human Services; and

13. "Commission" means the Commission for Human Services.

SECTION 3. AMENDATORY 21 O.S. 1991, Section 846, as last amended by Section 1, Chapter 324, O.S.L. 1994 (21 O.S. Supp. 1994, Section 846), is amended to read as follows:

Section 846. A. 1. Every:

- a. physician or surgeon, including doctors of medicine and dentistry, licensed osteopathic physicians, residents and interns, examining, attending or treating a child under the age of eighteen (18) years,
- b. registered nurse examining, attending or treating such a child in the absence of a physician or surgeon,
- c. teacher of any child under the age of eighteen (18) years, and
- d. other person

having reason to believe that a child under the age of eighteen (18) years has had physical injury or injuries inflicted upon the child by other than accidental means where the injury appears to have been caused as a result of physical abuse, sexual abuse, or neglect, shall report the matter promptly to the county office of the Department of Human Services in the county wherein the suspected injury occurred. Such reports may be made by telephone, in writing, personally or by any other method prescribed by the Department. Any report of abuse or neglect made pursuant to this section shall be made in good faith.

2. Every physician or surgeon, including doctors of medicine, licensed osteopathic physicians, residents and interns, or any other health care professional attending the birth of a child who appears to be a child born in a condition of dependence on a controlled dangerous substance shall promptly report the matter to the county office of the Department of Human Services in the county in which such birth occurred.

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

4. The reporting obligations under this section are individual, and no employer, supervisor or administrator shall impede or inhibit the reporting obligations. No employer, supervisor or administrator of a person required to provide information pursuant to this section shall discharge, or in any manner discriminate or retaliate against, any such person who in good faith provides such child abuse reports or information, testifies, or is about to testify in any proceeding involving child abuse or neglect; provided, that such person did not perpetrate or inflict such abuse or neglect. Any such employer, supervisor or administrator who discharges, discriminates or retaliates against such person shall be liable for damages, costs and attorney fees. Internal procedures to facilitate reporting and apprise employers, supervisors and administrators of reports may be established provided that they are not inconsistent with the provisions of this section.

5. Every physician or surgeon making a report of abuse or neglect as required by this subsection or examining a child to determine the likelihood of abuse, sexual abuse, or neglect and every hospital or related institution in which the child was examined or treated shall provide copies of the results of the examination or copies of the examination on which the report was based and any other clinical notes, x-rays, photographs, or other records relevant to the case to law enforcement officers conducting a criminal investigation into the case and to employees of the Department of Human Services conducting an investigation of alleged abuse or neglect in the case.

~~B. It shall be a misdemeanor for any person to knowingly and willfully fail to promptly report any incident as provided in this section.~~ If the report is not made in writing in the first instance, it shall be reduced to writing by the Department of Human Services, in accordance with procedures established rules promulgated by the Department of Commission for Human Services, as soon as may be after it is initially made by telephone or otherwise and shall contain the following information:

1. The names and addresses of the child and the child's parents or other persons responsible for the child's care;
2. The child's age;
3. The nature and extent of the child's injuries, including any evidence of previous injuries;
4. The nature and extent of the child's dependence on a controlled dangerous substance; and
5. Any other information that the maker of the report believes might be helpful in establishing the cause of the injuries and the identity of the person or persons responsible therefor if such information or any part thereof is known to the person making the report.

~~C. 1. The county office receiving any report as provided in this section shall investigate said report in accordance with priority guidelines established by the Department of Human Services and if the county office finds evidence of abuse and neglect forward its findings to the district attorney's office in the county wherein the suspected injury occurred together with its recommendation as to disposition. In addition, a copy of the findings shall be sent to the Child Welfare Division of the Department of Human Services for the purposes set forth in subsection E of this section.~~

~~2. Whenever, after a preliminary inquiry or investigation, the Department of Human Services determines that an alleged abuse or neglect of a child:~~

- ~~a. was perpetrated by someone other than a person responsible for the child's health and welfare, and~~
- ~~b. does not appear to be attributable to failure on the part of a person responsible for the child's health or welfare to provide protection for the child,~~

~~the Department shall immediately verbally notify an appropriate local law enforcement agency for the purpose of conducting a possible criminal investigation. The verbal notification to the local law enforcement agency shall be followed by written referral. After making the referral, the Department shall not be responsible for further investigation of the case unless notice is received from the law enforcement agency as provided by paragraph 3 of this subsection. The Department of Human Services shall promulgate rules for the implementation of the provisions of this subsection. Said rules shall include but not be limited to provision for adequate and appropriate inquiry or investigation by the Department prior to notification of a local law enforcement agency.~~

~~3. Any law enforcement agency receiving a referral as provided in this subsection shall provide the local child welfare office of the Department of Human Services with a copy of the report of its investigation resulting from a referral from the Department. Whenever, in the course of a criminal investigation related to child abuse or neglect, a law enforcement agency determines that there is cause to believe that the alleged abuse or neglect was perpetrated by a person responsible for the health and welfare of the child or is attributable to failure on the part of a person responsible for the child's health or welfare to provide protection for the child, the law enforcement agency shall immediately verbally contact the local child welfare office of the Department of Human Services for the purpose of an investigation by that office. The verbal notification to the local child welfare office shall be followed by a written referral. Any person who knowingly and willfully fails to promptly report any incident as provided in this section may be reported by the Department of Human Services to local law enforcement for criminal investigation and, upon conviction thereof, shall be guilty of a misdemeanor.~~

~~D. The Child Welfare Division of the Department of Human Services shall be responsible for maintaining a permanent central registry, suitably cross-indexed, of all such reported findings. Any information contained in the central registry shall be available to any county office and to any district attorney's office or public law enforcement agency investigating a report of suspected child abuse or neglect. The Department of Human Services may promulgate rules in furtherance of the provisions of this subsection 1. Any person who knowingly and willfully makes a false report pursuant to the provisions of this section or a report that the person knows lacks factual foundation may be reported by the Department of Human Services to local law enforcement for criminal investigation and, upon conviction thereof, shall be guilty of a misdemeanor.~~

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

~~E. 1. All records concerning child abuse shall be confidential and shall be open to inspection only to persons duly authorized by the state or the United States in connection with the performance of their official duties.~~

~~2. It shall be unlawful and a misdemeanor for the Commission for Human Services, or any employee working under the direction of the Department of Human Services, any other public officer or employee, or any court-appointed special advocate to furnish or permit to be taken off of the records any information therein contained for commercial, political or any other unauthorized purpose.~~

~~F. 1. Nothing in this section shall be construed to mean a child is abused or neglected for the sole reason the parent, guardian or person having custody or control of a child, in good faith, selects and depends upon spiritual means alone through prayer, in accordance with the tenets and practice of a recognized church or religious denomination, for the treatment or cure of disease or remedial care of such child.~~

2. Nothing contained in this subsection shall prevent a court from immediately assuming custody of a child, pursuant to ~~Section 1107 of Title 10 of the Oklahoma Statutes~~ the Oklahoma Children's Code, and ordering whatever action may be necessary, including medical treatment, to protect the child's health or welfare.

~~G. F.~~ Nothing contained in this section shall be construed to exempt or prohibit any person from reporting any suspected child abuse or neglect pursuant to subsection A of this section.

~~H. 1. In every case filed under Section 843 of this title, the judge of the district court shall appoint an attorney-at-law to appear for and represent a child who is the alleged subject of child abuse in such case. The attorney may be allowed a reasonable fee for such services to be paid from the court fund to be fixed by the district court. The attorney shall be given access to all reports relevant to the case and to any reports of examination of the child's parents or other custodian made pursuant to this section. The attorney shall be charged with the representation of the child's best interests. To that end, said attorney shall make such further investigation as the attorney deems necessary to ascertain the facts, to interview witnesses, examine and cross-examine witnesses at the preliminary hearing and trial, make recommendations to the court and participate further in the proceedings to the degree appropriate for adequately representing the child.~~

~~2. A court-appointed special advocate as defined by Section 1109 of Title 10 of the Oklahoma Statutes may be appointed to represent a child who is the alleged subject of child abuse or neglect. The court-appointed special advocate shall be given access to all reports relevant to the case and to any reports of examination of the child's parents or other custodian made pursuant to this section.~~

~~3. At such time as the information maintained by the registry provided for by subsection D of this section is indexed by perpetrator and the necessary and appropriate due process procedures are established by the Department of Human Services, a court-appointed special advocate organization, in accordance with the policies and rules of the Department, may utilize the registry for the purpose of completing background screenings of volunteers with the organization.~~

SECTION 4. AMENDATORY 21 O.S. 1991, Section 846.1, is amended to read as follows:

Section 846.1 Any physician, surgeon, osteopathic physician, resident, intern, physician's assistant, ~~or~~ registered nurse, or any other health care professional examining, attending, or treating the victim of what appears to be criminally injurious conduct including but not limited to child physical or sexual abuse, as defined by ~~Section 142.3 of Title 21 of the Oklahoma Statutes~~ the Oklahoma Crime Victims Compensation Act, shall report orally or by telephone the matter promptly to the nearest appropriate law enforcement agency in the county wherein the criminally injurious conduct occurred.

SECTION 5. AMENDATORY 21 O.S. 1991, Section 847, is amended to read as follows:

Section 847. Any person participating in good faith and exercising due care in the making of a report pursuant to the provisions of ~~Section 846 or 846.1 of this title~~ the Oklahoma Child Abuse and Prevention Act, or any person who, in good faith and exercising due care, allows access to a child by persons authorized to investigate a report concerning the child shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant shall have the same

immunity with respect to participation in any judicial proceeding resulting from such report.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7106 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. Any county office of the Department of Human Services receiving a child abuse or neglect report as provided in Section 3 of this act shall promptly investigate said report in accordance with priority guidelines established by the Department of Human Services. The Department may assign priorities to investigations based on the severity and immediacy of the alleged harm to the child. The Department shall adopt the priority system pursuant to rules promulgated by the Commission for Human Services. The primary purpose of the investigation shall be the protection of the child.

B. As necessary to complete a thorough investigation, the county office or the Department shall determine:

1. The nature, extent and cause of the abuse or neglect;
2. The identity of the person responsible for the abuse or neglect;
3. The names and conditions of any other children in the home;
4. An evaluation of the parents or persons responsible for the care of the child;
5. The adequacy of the home environment;
6. The relationship of the child to the parents or persons responsible for the care of the child; and
7. All other pertinent data.

C. 1. The investigation shall include a visit to the child's home, unless the alleged abuse or neglect can be confirmed or clearly ruled out without a home visit, and an interview with and examination of the subject child. The interview with and examination of the child may be conducted at any reasonable time and at any place, including but not limited to the child's school. The investigation may include an interview with the child's parents or any other person responsible for a child's health or welfare and an interview with and examination of any child in the home.

2. The investigation may include a medical, psychological, or psychiatric examination of any child in that home. If admission to the home, school, or any place where the child may be located cannot be obtained, then the district court having jurisdiction, upon application by the district attorney and upon cause shown, shall order the parents or the persons responsible for the health or welfare of the child, or the person in charge of any place where the child may be located, to allow entrance for the interview, the examination and the investigation. If the parents or person responsible for the child's health or welfare does not consent to a medical, psychological or psychiatric examination of the child that is requested by the county office or the Department, the district court having jurisdiction, upon application by the district attorney and upon cause shown, shall order the examination to be made at the times and places designated by the court.

3. The investigation may include an inquiry into the possibility that the child, a parent or a person responsible for the child's health or welfare has a history of mental illness. If a parent or person responsible for the child's health or welfare does not allow the county office or the Department to have access to mental health records or treatment plans, requested by the county office or the Department, which may relate to the abuse or neglect, the district court having jurisdiction, upon application by the district attorney and upon good cause shown, shall by order allow

the county office or the Department to have access to the records pursuant to terms and conditions prescribed by the court.

4. a. If the court determines that the parent or person responsible for the child's health or welfare is indigent, the court shall appoint an attorney to represent the parent or person responsible for the child's health or welfare at the hearing to obtain mental health records.
- b. A parent or person responsible for the child's health or welfare is entitled to notice and a hearing when the county office or the Department seeks a court order to allow a medical, psychological or psychiatric examination or access to mental health records.
- c. Access to mental health records does not constitute a waiver of confidentiality.

5. The investigation of sexual abuse or serious physical abuse or both sexual abuse and serious physical abuse shall be conducted, when appropriate and possible, using a multidisciplinary approach.

D. If, before the investigation is complete, the opinion of the child protective services worker is that immediate removal of the child is necessary to protect the child from further abuse or neglect, the child protective services worker shall recommend that the child be taken into custody pursuant to the Oklahoma Children's Code.

E. The county office shall make a complete written report of the investigation. The report, together with its recommendations, shall be submitted to the appropriate district attorney's office.

F. 1. Whenever, after a preliminary inquiry or investigation, the Department of Human Services determines that an alleged abuse or neglect of a child:

- a. was perpetrated by someone other than a person responsible for the child's health and welfare, and
- b. does not appear to be attributable to failure on the part of a person responsible for the child's health or welfare to provide protection for the child,

the Department shall immediately verbally notify an appropriate local law enforcement agency for the purpose of conducting a possible criminal investigation. The verbal notification to the local law enforcement agency shall be followed by written referral. After making the referral, the Department shall not be responsible for further investigation of the case unless notice is received from the law enforcement agency as provided by subparagraph 2 of this paragraph. The Commission for Human Services shall promulgate rules for the implementation of the provisions of this subsection. Such rules shall include but not be limited to provision for adequate and appropriate inquiry or investigation by the Department prior to notification of a local law enforcement agency.

2. Any law enforcement agency conducting an investigation of alleged child physical abuse or neglect shall provide the local child welfare office of the Department of Human Services with a copy of the report of its investigation.

3. Whenever, in the course of a criminal investigation related to child abuse or neglect, a law enforcement agency determines that there is cause to believe that the alleged abuse or neglect was perpetrated by a person responsible for the health and welfare of the child or is attributable to failure on the part of a person responsible for the child's health or welfare to provide protection for the child, the law enforcement agency shall immediately contact the county office for the purpose of an investigation by that

office. If the notification is verbal, the notification to the county office shall be followed by a written referral.

G. If the Department has reason to believe that a parent of the child or other person may remove the child from the state before the investigation is completed, the Department may request the district attorney to file an application for a temporary restraining order in any district court without regard to continuing jurisdiction of the child. After a hearing on the application, the court may enter a temporary restraining order prohibiting the parent or other person from removing the child from the state pending completion of the investigation if the court finds that the county office or the Department has probable cause to conduct the investigation.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7107 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. Except as otherwise provided by the Oklahoma Child Abuse Reporting and Prevention Act, the reports required by Section 3 of this act or any other information acquired pursuant to the Oklahoma Child Abuse Reporting and Prevention Act shall be confidential and may be disclosed only as provided in the Oklahoma Children's Code.

B. Except as otherwise provided by the Oklahoma Child Abuse Reporting and Prevention Act, any violation of the confidentiality requirements of the Oklahoma Child Abuse Reporting and Prevention Act shall be a misdemeanor punishable by up to six (6) months in jail or by a fine of Five Hundred Dollars (\$500.00) or by both fine and imprisonment.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7108 of Title 10, unless there is created a duplication in numbering, reads as follows:

As soon as possible after initiating an investigation of a parent or other person having responsibility for the health or welfare of a child pursuant to the Oklahoma Child Abuse Reporting and Prevention Act, the county office shall provide to the parent or person a brief and easily understood summary of:

1. The procedures of the Department of Human Services for conducting an investigation of alleged child abuse or neglect, including:
 - a. a description of the circumstances under which the Department would seek to remove the child from the home through the judicial system, and
 - b. an explanation that the law requires the Department to refer all reports of alleged criminal child abuse or neglect to a law enforcement agency for a separate determination of whether a criminal violation occurred;
2. The procedures to follow if there is a complaint regarding the actions of the Department or to request a review of the findings made by the Department in the investigation;
3. The person's right to review all records filed with the court concerning the investigation, provided the review shall not include the name of the person who filed the report specified in Section 3 of this act, and provided the review would not jeopardize an ongoing criminal investigation or adjudicatory hearing;
4. The person's right to seek legal counsel;
5. References to the statutory and regulatory provisions governing child abuse and neglect and how the person may obtain copies of those provisions; and
6. The process the person may use to acquire access to the child if the child is removed from the home.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7109 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. The Department of Human Services may provide information to a person or agency that provides professional services such as medical examination of or therapeutic intervention with a victim of abuse and neglect. This information may include but is not limited to:

1. The investigative determination; or
2. The services offered and provided.

B. The Department shall forward to any hospital or any physician, including but not limited to doctors of medicine and dentistry, licensed osteopathic physicians, residents and interns, reporting the physical abuse or sexual abuse of a child pursuant to Section 3 of this act, information including the investigative determination and such other information deemed necessary by the Department. Such information shall be entered and maintained in the child's medical records.

C. 1. The Department of Human Services shall forward to the school principal of the school in which a child is enrolled making a child abuse report pursuant to Section 3 of this act a summary of any confirmed report of sexual abuse or severe physical abuse of the Department concerning the child. The summary shall include a brief description of the circumstances of sexual abuse or serious physical abuse, the name of the parent or person responsible for the child's health or welfare, and the name of a Department employee who serves as a contact person regarding the case.

2. The Department shall not release data that would identify the person who made the initial child abuse or neglect report, other than an employee of the Department, or who cooperated in a subsequent investigation unless a court of competent jurisdiction orders release of the information for good cause shown.

3. The school principal shall forward to the receiving school all confirmed reports of sexual abuse and severe physical abuse received from the Department whenever a child transfers from one school district to another, and shall notify the Department of the child's new school, and address, if known.

4. Records maintained and transmitted pursuant to this section shall be confidential and shall be maintained and transmitted in the same manner as Special Education records or other such records, pursuant to Title 70 of the Oklahoma Statutes. Access to such records may be made available by the principal to a person designated to assist in the treatment of or with services provided to the child. Such records shall be destroyed when the student reaches eighteen (18) years of age.

D. The transmission of and access to such records shall not constitute a waiver of confidentiality.

E. This section shall not be interpreted to allow disclosure of any reports or records relevant to the reports of child abuse if the disclosure would be prohibited by any federal law applicable to the reports or records relevant to the reports of child abuse.

F. It shall be unlawful pursuant to the Oklahoma Child Abuse Reporting and Prevention Act for the Commission for Human Services, or any employee working under the direction of the Department of Human Services, any other public officer or employee, or any court-appointed special advocate to furnish or permit to be taken off of the records any information therein contained for commercial, political or any other unauthorized purpose.

G. Any person to whom disclosure is made shall not disclose to any other person reports or other information obtained pursuant to this section.

H. The Department shall submit the summary of confirmed sexual abuse or severe physical abuse of a child on forms developed by the Department. Such forms shall contain a warning that the information contained therein is confidential and may only be released to a person designated by the principal to assist in the treatment of or with services provided to a child.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7110 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. By July 1, 1997, in coordination with the Child Abuse Training and Coordinating Council, the district attorney's office in counties having fifty or more incidents of confirmed child sexual abuse or physical abuse reported to the Department of Human Services in the preceding year shall be responsible for convening a meeting of a coordinated multidisciplinary team, if such a team is not already in existence. If it is feasible to establish such a team, the lead agency shall be chosen by the members of the team. The team shall intervene in reports involving sexual abuse or severe physical abuse and neglect in order to make responsible efforts to minimize the number of interviews necessary with a child-victim.

B. The coordinated multidisciplinary team may include but need not be limited to:

1. Mental health professionals licensed pursuant to the laws of this state or licensed professional counselors;

2. Police officers or other law enforcement agents with a role in, or experience or training in child abuse investigation;

3. Medical personnel with experience in child abuse identification;

4. Child protective services workers within the Department of Human Services;

5. Multidisciplinary team coordinators, or a Child Advocacy Center Director; and

6. A county district attorney or a designee.

C. 1. To the extent that resources are available to each of the various multidisciplinary child abuse and neglect teams throughout the state, the functions of the team shall include, but not be limited to, the following specific functions:

a. review investigations, assess service delivery, and facilitate efficient and appropriate disposition of cases through the criminal justice system,

b. develop a written protocol for investigating child sexual and serious physical abuse cases and for interviewing child abuse victims. In addition, each team shall develop agreements signed by member agencies that specify the role of the team,

c. increase communication and collaboration among the professionals responsible for the reporting, investigation, prosecution and treatment of child abuse and neglect cases,

d. eliminate duplicative efforts in the investigation and the prosecution of child abuse cases,

e. identify gaps in service or all untapped resources within the community to improve the delivery of services to the victim and family,

f. encourage the development of expertise with discipline-specific training and cross-discipline training,

- g. formalize a case review and case tracking process for all or problematic cases of child abuse and neglect, and
- h. standardize investigative procedures for the handling of child abuse and neglect cases.

2. All investigations of child sexual abuse and serious physical abuse and interviews of child abuse victims shall be carried out by appropriate personnel using the protocols and procedures specified in this section.

3. If trained personnel are not available in a timely fashion and, in the judgment of a law enforcement officer or the Department of Human Services, there is reasonable cause to believe a delay in investigation or interview of the child abuse victim could place the child in jeopardy of harm or threatened harm to a child's health or welfare, the investigation may proceed without full participation of all personnel. This authority applies only for as long as reasonable danger to the child exists. A reasonable effort to find and provide a trained investigator or interviewer shall be made.

D. Nothing in this section shall preclude the use of:

- 1. Hospital or treatment-based team reviews for client-specific purposes; and
- 2. Teams in existence prior to July 1, 1995, and coordination of such teams.

E. Such multidisciplinary service team shall have full access to any service or treatment plan and any personal data known to the Department which is directly related to the implementation of this section.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7111 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. There is hereby established within the Department of Human Services a statewide central registry for child abuse, sexual abuse, and neglect made pursuant to the Oklahoma Child Abuse Reporting and Prevention Act. Any additional requirements required by this section that are not already within the existing statewide central registry for child abuse, sexual abuse, and neglect shall be fully implemented by January 1, 1996.

B. The Child Welfare Division of the Department of Human Services shall be responsible for maintaining the registry, which shall be suitably cross-indexed, of all such reported findings.

C. The central registry shall contain, but shall not be limited to:

- 1. All information in the written report required by Section 3 of this act;
- 2. A record of the final disposition of the report including services offered and services accepted;
- 3. The plan for rehabilitative treatment;
- 4. The names and identifying data, dates, and circumstances of any persons requesting or receiving information from the registry; and
- 5. Any other information which might be helpful in furthering the purposes of this section.

D. Data and information related to individual cases in the central registry shall be confidential and shall be made available only as authorized by state or federal law.

E. The Commission for Human Services shall promulgate rules governing the availability of such data and information.

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

G. Any person employed in the central registry who permits the data and information stored in the registry to be released without authorization to persons or agencies other than those specified by law shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00) or by imprisonment for not more than two and one-half (2 1/2) years, or by both such fine and imprisonment.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7112 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. In every case filed pursuant to the Oklahoma Child Abuse Reporting and Prevention Act, the judge of the district court shall appoint an attorney-at-law to appear for and represent a child who is the alleged subject of child abuse or neglect in such case. The attorney may be allowed a reasonable fee for such services to be paid from the court fund to be fixed by the district court. The attorney shall be given access to all reports relevant to the case and to any reports of examination of the child's parents or other custodian made pursuant to this section. The attorney shall be charged with the representation of the child's best interests. To that end, the attorney shall make such further investigation as the attorney deems necessary to ascertain the facts, to interview witnesses, examine and cross-examine witnesses at the preliminary hearing and trial, make recommendations to the court, and participate further in the proceedings to the degree appropriate for adequately representing the child.

B. A court-appointed special advocate as defined by the Oklahoma Children's Code and the Oklahoma Juvenile Code may be appointed to represent a child who is the alleged subject of child abuse or neglect. The court-appointed special advocate shall be given access to all reports relevant to the case and to any reports of examination of the child's parents or other custodian made pursuant to this section.

C. At such time as the information maintained by the statewide registry for child abuse, sexual abuse, and neglect is indexed by perpetrator and the necessary and appropriate due process procedures are established by the Department of Human Services, a court-appointed special advocate organization, in accordance with the policies and rules of the Department, may utilize the registry for the purpose of completing background screenings of volunteers with the organization.

SECTION 13. AMENDATORY 21 O.S. 1991, Section 848, is amended to read as follows:

Section 848. In any proceeding resulting from a report made pursuant to the provisions of ~~Section 846 of this title or Section 1 of this act~~ the Oklahoma Child Abuse Report and Prevention Act or in any proceeding where such a report or any contents of the report are sought to be introduced into evidence, such report, contents, or other fact related thereto or to the condition of the child or victim who is the subject of the report shall not be excluded on the ground that the matter is or may be the subject of a physician-patient privilege or similar privilege or rule against disclosure.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7114 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. In addition to any other costs which a court is authorized to require a defendant to pay, upon conviction of any offense involving child abuse or neglect, the court may require that the defendant pay court-appointed attorney fees for the victim to any local or state agency incurring the cost, and the cost of any

medical examinations conducted on the victim in order to determine the nature or extent of the abuse or neglect. If the court determines that the defendant has the ability to pay all or part of the medical examination costs, the court may set the amount to be reimbursed and order the defendant to pay that sum to the local or state agency incurring the cost in the manner in which the court believes reasonable and compatible with the defendant's financial ability. In making a determination of whether a defendant has the ability to pay, the court shall take into account the amount of any fine imposed upon the defendant and any amount the defendant has been ordered to pay in restitution.

B. In addition to any other costs which a court is authorized to require a defendant to pay, upon conviction of any offense involving sexual abuse, the court may require that the defendant pay, to the local or state agency incurring the cost, the cost of any medical examinations conducted on the victim for the collection and preservation of evidence. If the court determines that the defendant has the ability to pay all or part of the cost of the medical examination, the court may set the amount to be reimbursed and order the defendant to pay that sum to the local or state agency incurring the cost, in the manner in which the court believes reasonable and compatible with the defendant's financial ability. In making the determination of whether a defendant has the ability to pay, the court shall take into account the amount of any fine imposed upon the defendant and any amount the defendant has been ordered to pay in restitution. In no event shall a court penalize an indigent defendant by imposing an additional period of imprisonment in lieu of payment.

C. The court shall require the defendant to pay, upon conviction of any offense involving the sexual or physical abuse of a child, for the psychological evaluation to determine the extent of counseling necessary for the victim of the abuse and any necessary psychological counseling deemed necessary to rehabilitate the victim. Such evaluations and counseling may be performed by psychiatrists, psychologists, licensed professional counselors or social workers. The results of the examination shall be included in the court records and in information contained in the central registry.

SECTION 15. AMENDATORY 21 O.S. 1991, Section 843, is amended to read as follows:

Section 843. Any parent or other person who shall willfully or maliciously engage in child abuse or neglect or who shall otherwise willfully or maliciously injure, torture, maim, use unreasonable force upon a child under the age of eighteen (18), or sexually abuse, sexually exploit or otherwise abuse or neglect such child, ~~as those terms are defined by Section 845 of this title~~ or who shall cause, procure or permit any of said acts to be done, shall upon conviction be punished by imprisonment in the State Penitentiary not exceeding life imprisonment, or by imprisonment in a county jail not exceeding one (1) year, or by a fine of not less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), or both such fine and imprisonment.

SECTION 16. AMENDATORY 10 O.S. 1991, Section 1135, is amended to read as follows:

Section 1135. A. It is the intent of the Legislature ~~of this state~~ that the paramount consideration in the placement of each child adjudicated to be a ward of the court and placed in the custody of the Department of Human Services shall be the best interests of the child. Any placement will assure such care and guidance of the child, preferably in ~~his~~ the child's home, as will

serve the spiritual, emotional, mental and physical welfare of the child and will preserve and strengthen the family ties of the child whenever possible, with recognition of the fundamental rights of parenthood and with recognition of the responsibility of the state to assist the family in providing necessary education and training ~~and to reduce the rate of juvenile delinquency and to provide a system for the rehabilitation and reintegration of juvenile delinquents and the protection of the welfare of the general public.~~ In pursuit of these goals it is the intention of the Legislature to provide for removing the child from the custody of parents only when the welfare of the child ~~or the safety and protection of the public cannot be adequately safeguarded without removal;~~ and when the child has to be removed from ~~his~~ the child's family, to secure for the child custody, care and discipline consistent with the best interests and the treatment needs of the child.

B. 1. If the child is placed in the custody of the Department of Human Services, whether in emergency, temporary or permanent custody, the Department shall determine the appropriate placement of the child. Any change in the placement of a child adjudicated to be deprived shall be in accordance with the provisions of the Oklahoma Children's Code.

2. The Department shall review and assess each child committed to it to determine the type of placement consistent with the treatment needs of the child in the nearest geographic proximity to the home of the child ~~and, in the case of delinquent children, the protection of the public.~~ Such review and assessment shall include an investigation of the personal and family history of the child, and ~~his~~ the child's environment, and any physical or mental examinations considered necessary.

C. In making such review, the Department may use any facilities, public or private, which offer aid to it in the determination of the correct placement of the child.

SECTION 17. AMENDATORY 10 O.S. 1991, Section 1117, as last amended by Section 2, Chapter 15, O.S.L. 1994 (10 O.S. Supp. 1994, Section 1117), is amended to read as follows:

Section 1117. A. 1. Whenever the court transfers custody of a child as provided in this title, the person, institution, agency, or Department receiving custody shall have the right to, and shall be responsible for, the care and control of the child, and shall have the duty and authority to provide food, clothing, shelter, medical care, education, and discipline for the child. Except for an emergency psychiatric admission pursuant to the Inpatient Mental Health Treatment of Children Act, said person, institution, agency or department may provide or arrange for the provision of an inpatient mental health evaluation or inpatient mental health treatment of such child only pursuant to a court order as provided by the Inpatient Mental Health Treatment of Children Act. Nothing in this subsection shall be interpreted to prohibit or preclude the provision of outpatient mental health services, including an outpatient mental health examination, counseling, educational, rehabilitative or other similar services to said child, as necessary and appropriate, in the absence of a specific court order for such services.

2. The medical care, surgery and extraordinary care shall be charged to the appropriate agency where the child qualifies for the care under law, rule, regulation or administrative order or decision.

3. Nothing in this subsection shall be interpreted to:

- a. relieve a parent of the obligation to provide for the support of the child as otherwise provided by law, or

- b. limit the authority of the court to order a parent to make support payments or to make payments or reimbursements for medical care or treatment, including mental health care or treatment, to the person, institution, agency or Department having custody of the child, or
- c. abrogate the right of the child to any benefits provided through public funds for which the child is otherwise eligible.

4. No person, agency or institution shall be liable in a civil suit for damages for authorizing or not authorizing surgery or extraordinary care in an emergency, as determined by competent medical authority.

B. 1. If the child is placed in the custody of the Department of Human Services, whether in emergency, temporary or permanent custody, the Department shall determine the appropriate placement of the child. Any change in the placement of a child adjudicated to be deprived shall be in accord with the provisions of subsection F of Section 1116.1 of this title.

2. The person, institution, agency, or Department having legal custody of a child pursuant to an order of the court shall receive notice of court proceedings regarding the child as provided in Sections 1105 and 1115 of this title and shall be allowed to intervene upon application as a party to all court proceedings pertaining to the care and custody of the child including, but not limited to: adjudication, disposition, review of disposition, termination of parental rights and proceedings pursuant to the Inpatient Mental Health Treatment of Children Act.

SECTION 18. AMENDATORY Section 3, Chapter 306, O.S.L. 1993 (10 O.S. Supp. 1994, Section 1125.2A), is amended to read as follows:

Section 1125.2A A. Department of Human Services agency records pertaining to a child may be inspected and their contents disclosed without a court order to the following upon showing of proper credentials:

1. The court having the child currently before it in any proceeding pursuant to Title 10 of the Oklahoma Statutes, any district court or tribal court to which such proceedings may be transferred, employees and officers of the court in the performance of their duties, including but not limited to guardians ad litem appointed by the court, court-appointed special advocates, and members of review boards established pursuant to Section 1150.2 of this title;

2. A district attorney and the employees of an office of a district attorney in the course of their official duties pursuant to Title 10 of the Oklahoma Statutes or the prosecution of crimes against children;

3. The attorney representing a child who is the subject of a proceeding pursuant to the provisions of Title 10 of the Oklahoma Statutes or representing a child pursuant to subsection B of Section 846 of Title 21 of the Oklahoma Statutes. Said attorney may also access other records listed in subsection A of Section 1125.1 of this title for use in the legal representation of the child;

4. Employees of juvenile bureaus established by Section 1201 of Title 10 of the Oklahoma Statutes in the course of their official duties pursuant to Title 10 of the Oklahoma Statutes;

5. Employees of a law enforcement agency of this or another state and employees of a child protective service of another state or federally recognized Indian tribe in the course of their official duties pertaining to investigations of a report of known or

suspected child abuse or neglect or crimes against children or for the purpose of determining whether to place a child in protective custody;

6. Employees of a law enforcement agency in the course of their official duties pertaining to the investigation of a crime committed or alleged to have been committed by a person under eighteen (18) years of age. Records or information disclosed pursuant to this subparagraph may consist of summaries or may be limited to the information or records necessary for the purpose of the investigation; provided, records pertaining to any alleged or adjudicated abuse or neglect of the person shall not be inspected or disclosed;

7. The Oklahoma Commission on Children and Youth as provided by Sections 601.2 and 601.6 of this title;

8. Members of multidisciplinary teams designated by the Department of Human Services, investigating a report of known or suspected child abuse or neglect or providing services to a child or family which is the subject of the report;

9. A physician who has before him or her a child whom the physician reasonably suspects may be abused or neglected;

10. Any public or private agency or person authorized by the Department to diagnose, or provide care, treatment, supervision or other services to a child who is the subject of a report or record of delinquency, child abuse or neglect, or other adjudicatory category, provided the Department may limit such disclosure to summaries or to information directly necessary for the purpose of such disclosure;

11. Any federally recognized Indian tribe or state or county child protective services or child welfare agency providing for or supervising the diagnosis, care, treatment, supervision or other services provided such child; ~~and~~

12. The parents of the child who is the subject of such records; provided that records pertaining to any alleged or adjudicated abuse or neglect of said child shall not be inspected or disclosed pursuant to this paragraph; and

13. The Governor or to any person the Governor designates, in writing, and any federal official of the United States Department of Health and Human Services.

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

C. Records and their contents disclosed pursuant to this section shall remain confidential. The use of such information shall be limited to the purposes for which disclosure is authorized. It shall be unlawful and a misdemeanor for any person to furnish any record or disclose any information contained therein for any unauthorized purpose.

SECTION 19. AMENDATORY 10 O.S. 1991, Section 1211, as amended by Section 47, Chapter 290, O.S.L. 1994 (10 O.S. Supp. 1994, Section 1211), is amended to read as follows:

Section 1211. A. The Supreme Court is ~~authorized~~ required to establish by rule, education and training requirements for judges, associate judges, special judges, and referees who have juvenile court docket responsibility. The Administrative Director of the Courts shall be responsible for developing and administering procedures and rules for such courses for judicial personnel.

B. All judges having juvenile docket responsibility shall, ~~as their dockets permit,~~ attend training pertinent to issues relating to ~~juveniles~~ juvenile law and child abuse and neglect. The

Administrative Office of the Courts shall monitor the attendance of judges having juvenile docket responsibility at such training.

C. District attorneys and assistant district attorneys whose duties include responsibility for the juvenile court docket shall complete education and training courses in juvenile justice law and child abuse and neglect. The District attorneys Council shall be responsible for developing and administering procedures and rules for such courses for district attorneys and assistant district attorneys.

D. Any public defender, or assistant public defender, whose duties include responsibility for a juvenile court docket shall complete education and training courses in juvenile law and child abuse and neglect. The public defender shall be responsible for developing and administering procedures and rules for such courses.

E. Any attorney employed by or under contract with the Oklahoma Indigent Defense System whose duties include responsibility for a juvenile court docket shall complete education and training courses in juvenile law and child abuse and neglect. The Executive Director of the Oklahoma Indigent Defense System shall be responsible for developing and administering procedures and rules for such courses.

F. Any court-appointed special advocate (CASA) available for appointment pursuant to the Oklahoma Children's Code or the Oklahoma Juvenile Code shall complete education and training courses in juvenile law and child abuse and neglect. The chief judge of the judicial district for which a court-appointed special advocate serves shall be responsible for developing and administering procedures and rules for such courses.

G. The training and education programs required by this section shall be developed and provided by or in cooperation with the Child Abuse Training and Coordinating Council.

SECTION 20. RECODIFICATION 21 O.S. 1991, Sections 845, as last amended by Section 2 of this act, shall be recodified as Section 7102 of Title 10 of the Oklahoma Statutes, 846, as last amended by Section 3 of this act, shall be recodified as Section 7103 of Title 10 of the Oklahoma Statutes, 846.1, as amended by Section 4 of this act, shall be recodified as Section 7104 of Title 10 of the Oklahoma Statutes, 847, as amended by Section 5 of this act, shall be recodified as Section 7105 of Title 10 of the Oklahoma Statutes, 848, as amended by Section 13 of this act, shall be recodified as 7113 of Title 10 of the Oklahoma Statutes and 843, as amended by Section 15 of this act shall be recodified as Section 7115 of Title 10 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 21. RECODIFICATION Sections 1 through 6 of Enrolled House Bill No. 1322 of the 1st Session of the 45th Oklahoma Legislature, shall be recodified as Sections 60.51 through 60.56 of Title 10 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 22. This act shall become effective November 1, 1995.
Passed the House of Representatives the 15th day of May, 1995.

Speaker of the House of
Representatives

Passed the Senate the 17th day of May, 1995.

President of the Senate