

SHORT TITLE: Children and motor vehicles; child abuse investigations. Effective date.

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

SENATE BILL NO. 1385

By: Brown

AS INTRODUCED

An Act relating to children and motor vehicles;

amending 21 O.S. 1991, Sections 845, as renumbered by Section 20, Chapter 353, O.S.L. 1995, and as last amended by Section 10, Chapter 386, O.S.L. 1997, 846, as last amended by Section 3, Chapter 353, O.S.L. 1995, and as renumbered by Section 20, Chapter 353, O.S.L. 1995, Section 6, Chapter 353, O.S.L. 1995, as amended by Section 12, Chapter 200, O.S.L. 1996, Section 8, Chapter 353, O.S.L. 1995, Section 9, Chapter 353, O.S.L. 1995, as amended by Section 2, Chapter 212, O.S.L. 1996, Section 10, Chapter 353, O.S.L. 1995, as last amended by Section 11, Chapter 386, O.S.L. 1997, Section 11, Chapter 353, O.S.L. 1995, as last amended by Section 126, Chapter 133, O.S.L. 1997 and Section 12, Chapter 353, O.S.L. 1995, as amended by Section 14, Chapter 200, O.S.L. 1996 (10 O.S. Supp. 1997, Sections 7102, 7103, 7106, 7108, 7109, 7110, 7111 and 7112), which relate to protection of children, reporting and investigation of abuse, duty to provide summary, disclosure of information, multidisciplinary team, central registry for child abuse, and appointment of attorney; modifying definitions; clarifying language; requiring reporting of suspected abuse or neglect of children to the local law enforcement agency; subjecting

person making a false report to criminal prosecution; requiring local law enforcement agencies to investigate report; requiring Commissioner of Public Safety to promulgate certain rules; specifying that local law enforcement agencies make certain determinations; requiring visit to child's home except under certain circumstances; stating that local law enforcement agencies have responsibility to notify parents of child interviewed at school; designating local law enforcement agency as entity to request examination of child; allowing local law enforcement agency access to certain records; requiring report of local law enforcement agency; requiring an immediate criminal investigation under certain circumstances; requiring the Department of Human Services be contacted for assessment of need for services; requiring local law enforcement agency to request a temporary restraining order; requiring local law enforcement agency to provide parents or others with certain summary; allowing and requiring local law enforcement agencies to provide information to certain entities; providing for confidentiality; requiring notification of child's new school and address; prohibiting specified disclosure of information in records; requiring summary by local law enforcement agencies on specified forms; modifying membership of coordinated multidisciplinary team; placing registry for child abuse in Department of Public Safety; requiring the Family Protection Unit of the Department of Public Safety to be responsible for

maintaining registry; requiring Commissioner of Public Safety to promulgate certain rules and establish certain procedures; amending 47 O.S. 1991, Sections 2-103 and 2-117, as last amended by Section 4, Chapter 324, O.S.L. 1996 (47 O.S. Supp. 1997, Section 2-117), which relate to organization and police authority of the Department of Public Safety; requiring certain form of organization; including the Family Protection Unit as part of the Department of Public Safety; dividing the Unit into three sections; increasing powers and duties of the Commissioner of Public Safety and officers of the Department of Public Safety; and providing an effective date.

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

SECTION 1. AMENDATORY 21 O.S. 1991, Section 845, as renumbered by Section 20, Chapter 353, O.S.L. 1995, and as last amended by Section 10, Chapter 386, O.S.L. 1997 (10 O.S. Supp. 1997, Section 7102), is amended to read as follows:

Section 7102. A. 1. It is the policy of this state to provide for the protection of children who have been abused or neglected and who may be further threatened by the conduct of persons responsible for the care and protection of such children. Once any child of a family has been returned to a person named in the petition, a period of supervision by the court of not less than twelve (12) months shall occur prior to dismissal by the court, subject to the availability of funds. Supervision by the Department of Human

Services during this period shall be in accordance with rules promulgated by the ~~Department~~ Commission for Human Services.

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 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 or protection from harm or threatened harm;

3. "Child" means any person under the age of eighteen (18) years except any person convicted of a crime specified in Section 7306-1.1 of this title or any person who has been certified as an adult pursuant to Section 7303-4.3 of this title and convicted of a felony;

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, facility or day treatment program as defined in Section

175.20 of this title; or an owner, operator, or employee of a child care facility as defined by Section 402 of this title;

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;

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 7110 of this title 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~~ local law enforcement officer:

- 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~~ local law enforcement officer, 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~~ local law enforcement officer, 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~~ Public Safety Family Protection Unit with sufficient experience or training as determined by the Department in child abuse prevention and identification;

12. "Department" means the Department of ~~Human Services~~ Public Safety; and

13. "~~Commission~~ Commissioner" means the ~~Commission for Human Services~~ Commissioner of Public Safety.

SECTION 2. AMENDATORY 21 O.S. 1991, Section 846, as last amended by Section 3, Chapter 353, O.S.L. 1995, and as renumbered by Section 20, Chapter 353, O.S.L. 1995 (10 O.S. Supp. 1997, Section 7103), is amended to read as follows:

Section 7103. 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~~ local law enforcement agency 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 of Public Safety. 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~~ local law enforcement agency 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~~ or an investigation of alleged abuse or neglect in the case.

B. If the report is not made in writing in the first instance, it shall be reduced to writing by the ~~Department of Human Services~~ local law enforcement agency, in accordance with rules promulgated by the ~~Commission for Human Services~~ Commissioner of Public Safety, 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. 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 the local law enforcement agency for criminal investigation and, upon conviction thereof, shall be guilty of a misdemeanor.

D. 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~~ prosecution 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. 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 the Oklahoma Children's Code, and ordering whatever action may be necessary, including medical treatment, to protect the child's health or welfare.

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.

SECTION 3. AMENDATORY Section 6, Chapter 353, O.S.L. 1995, as amended by Section 12, Chapter 200, O.S.L. 1996 (10 O.S. Supp. 1997, Section 7106), is amended to read as follows:

Section 7106. A. 1. Any ~~county office of the Department of Human Services~~ local law enforcement agency receiving a child abuse or neglect report as provided in Section 7103 of this title shall promptly investigate ~~said~~ such report in accordance with priority guidelines established by the Department of ~~Human Services~~ Public Safety. 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~~ Commissioner of Public Safety. The primary purpose of the investigation shall be the protection of the child.

2. If an investigation by the ~~Department of Human Services~~ local law enforcement agency of any report of child abuse shows that the incident reported was the result of the reasonable exercise of parental discipline as defined in Section 844 of Title 21 of the Oklahoma Statutes, then the investigation will proceed no further. If such incident was the result of the reasonable exercise of parental discipline, all records regarding the incident shall be expunged.

B. As necessary to complete a thorough investigation, the ~~county office or the Department~~ local law enforcement agency 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 there is reason to believe that there is an extreme safety risk to the child or ~~worker~~ law enforcement officer or it appears that the referral has been made in bad faith, and shall also include 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. It shall be the responsibility of the ~~Department of Human Services~~ local law enforcement agency to notify the parents of a child who has been interviewed at a 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~~ local law enforcement agency, 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~~ local law enforcement agency to have access to mental health records or treatment plans, requested by the ~~county office or the Department~~ local law enforcement agency, 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~~ local law enforcement agency 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~~ local law enforcement agency 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~~ local law enforcement agency 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~~ local law enforcement agency 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~~ shall immediately conduct a 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 2 of this subsection. The Commission for Human Services Commissioner of Public Safety 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 of the Department of Human Services for the purpose of an ~~investigation~~ assessment by that office of the need for services. If the notification is verbal, the notification to the county office shall be followed by a written referral.

G. If the ~~Department~~ local law enforcement agency 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~~ local law enforcement agency may request the district attorney to file an application for a temporary restraining order in any district court in the State of Oklahoma 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~~ local law enforcement agency has probable cause to conduct the investigation.

SECTION 4. AMENDATORY Section 8, Chapter 353, O.S.L. 1995 (10 O.S. Supp. 1997, Section 7108), is amended to read as follows:

Section 7108. 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~~ local law

enforcement agency shall provide to the parent or person a brief and easily understood summary of:

1. The procedures of the Department of ~~Human Services~~ Public Safety 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~~ investigate 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 5. AMENDATORY Section 9, Chapter 353, O.S.L. 1995, as amended by Section 2, Chapter 212, O.S.L. 1996 (10 O.S. Supp. 1997, Section 7109), is amended to read as follows:

Section 7109. A. The ~~Department of Human Services~~ local law enforcement agency 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~~ local law enforcement agency 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 7103 of this title, information including the investigative determination and such other information deemed necessary by the ~~Department~~ local law enforcement agency. Such information shall be entered and maintained in the child's medical records.

C. 1. The ~~Department of Human Services~~ local law enforcement agency shall forward to the ~~school~~ principal of the school in which a child is enrolled ~~making~~ and from which a child abuse report pursuant to Section 7103 of this title was made a summary of any confirmed report of sexual abuse or severe physical abuse ~~of~~ pursuant to an investigation by the ~~Department~~ local law enforcement agency 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~~ local law enforcement agency employee who serves as a contact person regarding the case.

2. The ~~Department~~ local law enforcement agency shall not release, other than to an employee of the local law enforcement agency, 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~~ local law enforcement agency whenever a child transfers from one school district to another, and shall notify the ~~Department~~ local law enforcement agency 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 or designee 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~~ Commissioner of Public Safety, or any employee working under the direction of the Department of ~~Human Services~~ Public Safety, 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~~ local law enforcement agency shall submit the summary of confirmed sexual abuse or severe physical abuse of a child on forms developed by the ~~Department~~ Commissioner of Public Safety. 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 6. AMENDATORY Section 10, Chapter 353, O.S.L. 1995, as last amended by Section 11, Chapter 386, O.S.L. 1997 (10 O.S. Supp. 1997, Section 7110), is amended to read as follows:

Section 7110. A. By July 1, 1997, in coordination with the Child Abuse Training and Coordinating Council, each district attorney's district shall be responsible for convening a meeting of a coordinated multidisciplinary team, if such a team is not already in existence. If the district attorney's office is unwilling or unable to convene the meeting, the meeting shall be convened by one of the other entities listed in subsection B of this section. 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~~ Public Safety;

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

6. A 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 of Public Safety which is directly related to the implementation of this section.

SECTION 7. AMENDATORY Section 11, Chapter 353, O.S.L. 1995, as last amended by Section 126, Chapter 133, O.S.L. 1997 (10 O.S. Supp. 1997, Section 7111), is amended to read as follows:

Section 7111. A. There is hereby established within the Department of ~~Human Services~~ Public Safety 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~~ Family Protection Unit of the Department of ~~Human Services~~ Public Safety 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 7103 of this title;

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~~ Commissioner of Public Safety shall promulgate rules governing the availability of such data and information.

F. Rules promulgated by the ~~Commission~~ Commissioner 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 guilty of a felony. The fine for a violation of this subsection shall not be more than One Thousand Dollars (\$1,000.00).

H. Any court or agency records relating to confirmed, ruled out or unconfirmed reports shall be maintained by the court or agency until otherwise provided by law.

SECTION 8. AMENDATORY Section 12, Chapter 353, O.S.L. 1995, as amended by Section 14, Chapter 200, O.S.L. 1996 (10 O.S. Supp. 1997, Section 7112), is amended to read as follows:

Section 7112. A. In every criminal case filed pursuant to the Oklahoma Child Abuse Reporting and Prevention Act, the judge of the district court may appoint an attorney-at-law to appear for and represent a child who is the alleged victim of child abuse or neglect. The attorney may be allowed a reasonable fee for such services and shall meet with the child as soon as possible after receiving notification of the appointment. Except for good cause shown to the court, the attorney shall meet with the child not less than twenty-four (24) hours prior to any hearing. 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 including reports of service providers.

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

SECTION 9. AMENDATORY 47 O.S. 1991, Section 2-103, is amended to read as follows:

Section 2-103. A. The Commissioner of Public Safety shall organize the Department of Public Safety in such manner as ~~he~~ the Commissioner may deem necessary and proper to segregate and conduct the work of the Department, ~~and the~~. The Department shall be divided into five principal divisions, ~~to be known respectively as~~ the follows:

1. Oklahoma Highway Patrol Division;i

2. ~~Drivers~~ Driver License Division;i

3. Lake Patrol Division;i

4. Financial Responsibility Division;i and

5. Administrative Division. ~~The latter division,~~ which shall include the Technical and Communications Section, the Family Protection Unit, and any other section or bureau deemed necessary by the Commissioner.

B. The Family Protection Unit shall consist of three sections:

1. The Law Enforcement Child Abuse Section, which shall be staffed with law enforcement personnel and shall be responsible for

the investigation of allegations that initially appear to involve severe child abuse or any other types of criminal child abuse;

2. The Child and Family Protection Section, which shall be staffed with non-law enforcement personnel and shall be responsible for the investigation of allegations of child abuse that initially do not appear to involve severe abuse or the need for a criminal investigation but have implications of criminal activity involving child abuse; and

3. The Child Abuse Hotline Section, which shall administer twenty-four-hour toll-free in-watts telephone services to report to the Department of Public Safety information regarding possible incidents of child abuse.

SECTION 10. AMENDATORY 47 O.S. 1991, Section 2-117, as last amended by Section 4, Chapter 324, O.S.L. 1996 (47 O.S. Supp. 1997, Section 2-117), is amended to read as follows:

Section 2-117. The Commissioner of Public Safety and each officer of the Department of Public Safety as shall be designated and all members of the Oklahoma Highway Patrol Division shall have the following powers and duties:

1. Of peace officers for the purpose of enforcing the provisions of the Uniform Vehicle Code and any other law regulating the operation of vehicles or the use of the highways, including the Motor Carriers Act of this state or any other laws of this state by the direction of the Governor.

2. The officers and members of the Oklahoma Highway Patrol Division are hereby declared to be peace officers of the State of Oklahoma and shall be so deemed and taken in all courts having jurisdiction of offenses against the laws of the state. The members of the Oklahoma Highway Patrol Division shall have the powers now or hereafter vested by law in peace officers except the serving or execution of civil process. The members of the Oklahoma Highway Patrol Division shall have authority to arrest without writ, rule,

order or process any person detected by them in the act of violating any law of the state. When a member of the Oklahoma Highway Patrol Division is in pursuit of a violator or suspected violator and is unable to arrest such violator or suspected violator within the limits of the district or territory over which the jurisdiction of such member of the Oklahoma Highway Patrol Division extends, the officer shall be and is hereby authorized to continue in pursuit of such violator or suspected violator into whatever part of the state may be reasonably necessary to effect the apprehension and arrest of the same, and to arrest such violator or suspected violator wherever he or she may be overtaken, and to assist in the location of stolen property, including livestock and poultry or the carcasses thereof, and to make any inspection necessary of any truck, trailer or contents thereof in connection therewith.

The powers and duties conferred on the members and officers of the Oklahoma Highway Patrol Division shall not limit the powers and duties of sheriffs or other peace officers of the state or any political subdivision of the state; provided, however, that the Oklahoma Highway Patrol Division shall have primary law enforcement authority respecting traffic-related offenses upon the National System of Interstate and Defense Highways, and may have special law enforcement authority on those portions of the federal-aid primary highways and the state highway system which are located on the outskirts and are within the boundaries of any municipality, and designated by the Commissioner of Public Safety for such special law enforcement authority. The outskirts of a municipality may be determined by reference to the following factors:

- a. low land use density,
- b. absence of any school or residential subdivision requiring direct ingress or egress from the highway,
- c. low volume of traffic on the highway, and

- d. a scarcity of retail or commercial business abutting the highway.

The Commissioner may designate any portion of the National System of Interstate and Defense Highways, and those portions of the federal-aid primary highways and the state highway system which are located on the outskirts and are within the boundaries of any municipality, as hereinbefore defined for special traffic-related enforcement by the Oklahoma Highway Patrol Division and issue a written notice to any other law enforcement agency affected thereby. Upon receipt of such notice, the affected law enforcement agency shall not regulate traffic nor enforce traffic-related statutes or ordinances upon such designated portion of the National System of Interstate and Defense Highways or such designated portions of the federal-aid primary highways and the state highway system without prior coordination and written approval of the Commissioner. Nothing in this section shall limit a member of the Oklahoma Highway Patrol Division from requesting assistance from any other law enforcement agency nor limit officers of such agency from rendering the requested assistance. The officer and the law enforcement agency responding to the request of the member of the Oklahoma Highway Patrol Division or sheriff's department shall have the same rights and immunities as are possessed by the Oklahoma Highway Patrol Division.

3. At all times to direct all traffic in conformance with law and, in the event of a fire, or other emergency, or to expedite traffic, or to insure safety, to direct traffic as conditions may require, notwithstanding the provisions of law. A member of the Oklahoma Highway Patrol Division shall have the authority, and it shall be the member's duty, to require satisfactory proof of ownership of the contents of any motor vehicle as defined in Section 2-101 et seq. of this title, including livestock, poultry or the carcasses thereof. In the event that the proof of ownership is not

satisfactory, it shall be the duty of a member of the Oklahoma Highway Patrol Division to take the motor vehicle, driver and the contents of the motor vehicle into custody and deliver same to the sheriff of the county wherein the cargo, motor vehicle and driver are taken into custody.

4. When on duty, upon reasonable belief that any vehicle is being operated in violation of any provisions of the Uniform Vehicle Code, or any other law regulating the operation of vehicles, to require the driver thereof to stop and exhibit his or her driver's license and the registration card issued for the vehicle and submit to an inspection of such vehicle, the registration plates and registration card thereon or to any inspection and test of the equipment of such vehicle.

5. To inspect any vehicle of a type required to be registered hereunder in any public garage or repair shop or in any place where such vehicles are held for sale or wrecking, for the purpose of locating stolen vehicles and investigating the title and registration thereof.

6. To serve all warrants relating to the enforcement of the laws regulating the operation of vehicles or the use of the highways and bench warrants issued for nonpayment of fines and costs for moving traffic violations.

7. To investigate traffic accidents and secure testimony of witnesses or of persons involved.

8. To investigate reported thefts of motor vehicles, trailers and semitrailers.

9. To stop and inspect any motor vehicle or trailer for such mechanical tests as may be prescribed by the Commissioner to determine the vehicle's roadability. Any vehicle which may be found to be unsafe for use on the highways may be ordered removed from said highway until such alterations or repairs have been made that will render said vehicle serviceable for use on the highway. To

stop and inspect the contents of all motor vehicles to ascertain whether or not the provisions of all general laws are being observed.

10. It shall be the duty of the Oklahoma Highway Patrol Division to enforce the laws of the state relating to the registration and licensing of motor vehicles; to enforce the laws relating to the operation and use of vehicles on the highway; to enforce and prevent, on the roads of the state highway system, the violation of the laws relating to the size, weight, and speed of commercial motor vehicles and all laws designed for the protection of the highway pavements and structures on such highways; to investigate and report to the Corporation Commission and the Oklahoma Tax Commission violation of their rules and regulations and the laws governing the transportation of persons and property by motor transportation companies and all other motor carriers for hire; to investigate and report violations of all laws relating to the collection of excise taxes on motor vehicle fuels; and regulate the movement of traffic on the roads of the state highway system. It shall be the duty of the Oklahoma Highway Patrol Division, whenever possible, to determine persons causing or responsible for the breaking, damaging, or destruction of any improved surfaced roadway, structure, sign, marker, guardrail, or any other appurtenance constructed or maintained by the Department of Transportation, and to arrest persons responsible therefor and to bring them before the proper officials for prosecution. It shall be the duty of the Oklahoma Highway Patrol Division to investigate and report all motor vehicle accidents on the state highway system outside of incorporated municipalities.

Whenever any person is arrested by a patrol officer for a traffic violation the provisions of Sections 16-101 through 16-114 of this title shall apply.

11. To establish a Family Protection Unit to conduct child abuse investigations, administer the child abuse hotline and to provide training and technical assistance to local law enforcement agencies in conducting child abuse investigations.

12. No state official shall have any power, right, or authority to command, order, or direct any member of the Oklahoma Highway Patrol Division to perform any duty or service contrary to the provisions of the Uniform Vehicle Code.

SECTION 11. This act shall become effective November 1, 1998.

46-2-2203

CJ