ENROLLED HOUSE
BILL NO. 1611

By: Roggow and Wesselhoft of the House

and

Gumm of the Senate

An Act relating to children; amending 10 O.S. 2001, Sections 7102, as amended by Section 1, Chapter 487, O.S.L. 2002, 7105, 7110, as last amended by Section 1, Chapter 117, O.S.L. 2003, and 7110.2, as amended by Section 4, Chapter 487, O.S.L. 2002 (10 O.S. Supp. 2004, Sections 7102, 7110 and 7110.2), which relate to the Oklahoma Child Abuse Reporting and Prevention Act; modifying definition; providing immunity for certain persons; clarifying composition of specified team; modifying reaccreditation provisions; modifying certain requirements; and declaring an emergency.

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

SECTION 1. AMENDATORY 10 O.S. 2001, Section 7102, as amended by Section 1, Chapter 487, O.S.L. 2002 (10 O.S. Supp. 2004, 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 health, safety or welfare of such children.

2. It is the policy of this state that in responding to a report of child abuse or neglect:

a. in any necessary removal of a child from the home,

b. in placements of a child required pursuant to the Oklahoma Child Abuse Reporting and Prevention Act, and

c. in any administrative or judicial proceeding held pursuant to the provisions of the Oklahoma Child Abuse Reporting and Prevention Act,

that the best interests of the child shall be of paramount consideration.

B. Except as otherwise provided by and used in the Oklahoma Child Abuse Reporting and Prevention Act:

1. “Abuse” means harm or threatened harm to a child's health, safety or welfare by a person responsible for the child's health, safety or welfare, including sexual abuse and sexual exploitation;

2. “Harm or threatened harm to a child's health or safety” includes, but is not limited to:

a. nonaccidental physical or mental injury,

b. sexual abuse,

c. sexual exploitation,

d. neglect,

e. failure or omission to provide protection from harm or threatened harm, or

f. abandonment;

3. “Neglect” means failure or omission to provide:

a. adequate food, clothing, shelter, medical care, and supervision,

b. special care made necessary by the physical or mental condition of the child, or

c. abandonment;

4. “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;

5. “Person responsible for a child's health, safety or welfare” includes a parent; a legal guardian; a 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;

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

7. “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, safety 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, safety or welfare;

8. “Multidisciplinary child abuse team” means any team established pursuant to the provisions of Section 7110 of this title;

9. "Child advocacy center" means an entity that is ~~a full member in good standing with~~ accredited by the National Children's Alliance or that is completing a sixth year of reaccreditation. Child advocacy centers shall be classified, based on the child population of a district attorney's district, as follows:

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

b. mid-level nonurban centers in districts with child populations equal to or greater than sixty thousand (60,000), but not including Oklahoma and Tulsa Counties, and

c. urban centers in Oklahoma and Tulsa Counties;

10. "Assessment" means a systematic process utilized by the Department of Human Services to respond to reports of alleged child abuse or neglect which, according to priority guidelines established by the Department, do not constitute a serious and immediate threat to the child's health, safety or welfare. The assessment includes, but is not limited to, the following elements:

a. an evaluation of the child's safety, and

b. a determination regarding the family's need for services;

11. "Investigation" means an approach utilized by the Department to respond to reports of alleged child abuse or neglect which, according to priority guidelines established by the Department, constitute a serious and immediate threat to the child's health or safety. An investigation includes, but is not limited to, the following elements:

a. an evaluation of the child's safety or welfare,

b. a determination whether or not child abuse or neglect occurred, and

c. a determination regarding the family's need for prevention and intervention-related services;

12. "Services not needed determination" means a report in which a child protective services worker, after an investigation, determines that there is no identified risk of abuse or neglect;

13. "Services recommended determination" means a report in which a child protective services worker, after an investigation, determines the allegations to be unfounded or for which there is insufficient evidence to fully determine whether child abuse or neglect has occurred, but one in which the Department determines that the child and the child's family could benefit from receiving prevention and intervention-related services;

14. "Confirmed report - services recommended" means a report which is determined by a child protective services worker, after an investigation and based upon some credible evidence, to constitute child abuse or neglect which is of such a nature that the Department recommends prevention and intervention-related services for the

parents or persons responsible for the care of the child or children, but for which initial court intervention is not required;

15. “Confirmed report - court intervention” means a report which is determined by a child protective services worker, after an investigation and based upon some credible evidence, to constitute child abuse or neglect which is of such a nature that the Department finds that the child's health, safety or welfare is threatened;

16. “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;

17. “Department” means the Department of Human Services;

18. “Commission” means the Commission for Human Services; and

19. “Prevention and intervention-related services” means community-based programs that serve children and families on a voluntary and time-limited basis to help reduce the likelihood or incidence of child abuse and neglect.

SECTION 2. AMENDATORY 10 O.S. 2001, Section 7105, is amended to read as follows:

Section 7105. A. Any person participating in good faith and exercising due care in the making of a report pursuant to the provisions of the Oklahoma Child Abuse Reporting 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.

B. For purposes of any proceeding, civil or criminal, the good faith of any physician, surgeon, osteopathic physician, resident, intern, physician’s assistant, registered nurse, or any other health care professional in making a report pursuant to the provisions of Section 7104 of this title shall be presumed.

<u>C. A child advocacy center that is accredited by the National Children's Alliance, and the employees thereof, who are acting in good faith and exercising due care shall have immunity from civil liability that may be incurred or imposed through participation in the investigation process and any judicial proceeding resulting from the investigation process.</u>

SECTION 3. AMENDATORY 10 O.S. 2001, Section 7110, as last amended by Section 1, Chapter 117, O.S.L. 2003 (10 O.S. Supp. 2004, Section 7110), is amended to read as follows:

Section 7110. A. 1. In coordination with the Child Abuse Training and Coordination Council, each district attorney shall develop a multidisciplinary child abuse team in each county of the district attorney or in a contiguous group of counties.

2. The lead agency for the team shall be chosen by the members of the team. The team shall intervene in reports involving child sexual abuse or child physical abuse or neglect.

B. The multidisciplinary child abuse team members shall 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 and neglect investigation;

3. Medical personnel with experience in child abuse and neglect identification;

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

5. Multidisciplinary child abuse team coordinators, or ~~a~~ Child Advocacy Center ~~Director~~ personnel; and

6. The district attorney or assistant district attorney.

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

a. whenever feasible, law enforcement and child welfare staff shall conduct joint investigations in an effort to effectively respond to child abuse reports,

b. develop a written protocol for investigating child sexual abuse and child physical abuse or neglect cases and for interviewing child victims. The purpose of the protocol shall be to ensure coordination and cooperation between all agencies involved so as to increase the efficiency in handling such cases and to minimize the stress created for the allegedly abused child by the legal and investigatory process. In addition, each team shall develop confidentiality statements and interagency agreements signed by member agencies that specify the cooperative effort of the member agencies to the team.

(1) Freestanding multidisciplinary teams shall be approved by the Child Abuse Training and Coordination Council. The Child Abuse Training and Coordination Council shall conduct an annual review of freestanding multidisciplinary teams to ensure that the teams are functioning effectively. Teams not meeting the minimal standards as promulgated by the Child Abuse Training and Coordination Council shall be removed from the list of functioning teams in the state.

(2) A multidisciplinary team shall be automatically deemed a functioning team and shall not be subject to review and approval by the Child Abuse Training and Coordination Council if:

(a) the multidisciplinary team is initially accredited along with a child advocacy center by the National Children's Alliance for the first two (2) years,

(b) the multidisciplinary team is reaccredited along with a child advocacy center by the National Children's Alliance, and in the third year of accreditation the multidisciplinary team secures an independent review of its activities by an independent reviewer approved by the National Children's Alliance and the independent reviewer finds that the child advocacy center is in substantial compliance with the same standards used to accredit the child advocacy center when it was last reviewed, or

(c) the multidisciplinary team is reaccredited along with a child advocacy center by the National Children's Alliance, and in the fifth or sixth year of ~~accreditation~~ reaccreditation the team secures ~~reaccreditations~~ reaccreditation from the National Children's Alliance Board of Directors,

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 and neglect 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 through training. Each team member and those conducting child abuse investigations and interviews of child abuse victims shall be trained in the multidisciplinary team approach, conducting legally sound and age-appropriate interviews, effective investigation techniques and joint investigations as provided through the Child Abuse Training and Coordination Council or other resources,

g. formalize a case review process and provide data as requested to the Child Abuse Training and Coordination Council for freestanding teams, and

h. standardize investigative procedures for the handling of child abuse and neglect cases.

2. All investigations of child sexual abuse and child physical abuse or neglect and interviews of child abuse or neglect 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 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. 1. A multidisciplinary child abuse team may enter into an agreement with the Child Death Review Board within the Oklahoma Commission on Children and Youth and, in accordance with rules promulgated by the Oklahoma Commission on Children and Youth, conduct case reviews of deaths and near deaths of children within the geographical area of that multidisciplinary child abuse team.

2. Any multidisciplinary child abuse team reviewing deaths and near deaths of children shall prepare and make available to the public, on an annual basis, a report containing a summary of the activities of the team relating to the review of the deaths and near deaths of children and a summary of the extent to which the state child protection system is coordinated with foster care and adoption programs and whether the state is efficiently discharging its child protection responsibilities. The report shall be completed no later than December 31 of each year.

E. Nothing in this section shall preclude the use of hospital team reviews for client-specific purposes and multidisciplinary teams, either of which were in existence prior to July 1, 1995; provided, however, such teams shall not be subject to the provisions of paragraph 1 of subsection A of this section.

F. Such multidisciplinary child abuse 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.

G. 1. When funds become available, the Department of Human Services shall disburse funds to child advocacy centers as defined in subsection B of Section 7102 of this title.

2. The Department of Human Services is authorized to establish procedures related to the application process for disbursement of funds to centers.

3. When funds become available, the Department of Human Services shall disburse monies to a multidisciplinary child abuse team as provided in subsections A and B of this section.

SECTION 4. AMENDATORY 10 O.S. 2001, Section 7110.2, as amended by Section 4, Chapter 487, O.S.L. 2002 (10 O.S. Supp. 2004, Section 7110.2), is amended to read as follows:

Section 7110.2 A. 1. The Department of Human Services shall allocate monies available in the Child Abuse Multidisciplinary Account (CAMA).

2. Eligible applicants shall include one ~~certified~~ functioning multidisciplinary child abuse team per county, as provided in Section 7110 of this title, and one child advocacy center per district attorney's district, as endorsed by the district attorney, until such time as the center receives ~~full membership in~~ accreditation by the National Children's Alliance, thus becoming the Child Advocacy Center for the district attorney's district. A center in existence prior to December 31, 2000, shall not be subject to district attorney endorsement. The accredited center shall remain the center for the district attorney's district as long as the ~~full membership~~ accreditation is ~~in good standing, with the existing two district exemptions of established centers; provided, however, a center in existence prior to December 31, 2000, shall not be subject to district attorney endorsement. The center application shall be a combined team and center application~~ maintained pursuant to the provisions of Section 7110 of this title, and during fifth- and sixth-year reaccreditation reviews, while a center is eligible for Child Abuse Multidisciplinary Account funding, and the center remains the child advocacy center for the district attorney's district. If a center has not secured reaccreditation during the sixth year pursuant to the provisions of Section 7110 of this title, endorsement by the district attorney as the child advocacy center for the district may be sought by any entity beginning with the calendar year after an unsuccessful sixth-year reaccreditation attempt. The ~~district exemptions shall include~~ two centers in district number (4) and district number ~~13, with each of these centers being funded~~ (13) that were accredited as of the effective date of this act shall continue to receive funding at the nonurban level. ~~If~~ Should one of the exempted centers ~~closes~~ close or no longer meet the definition of a child advocacy center pursuant to the provisions of Section 7102 of this title, the center shall not be allowed to reopen in that district or to receive CAMA funds. The remaining center shall become the sole child advocacy center for the district attorney's district. Should one of such exempted centers fail to complete the sixth-year reaccreditation process, the remaining child advocacy center in the district attorney's district shall become the sole center for the district with all rights established in law. The center application shall be a combined team and center application for statewide purposes.

3. Funding distribution pursuant to the provisions of this subsection shall be determined:

a. by multiplying the number of applicants in each category by the corresponding weight as follows:

(1) freestanding teams - 1,

(2) nonurban centers - 4,

(3) mid-level nonurban centers - 6, and

(4) urban centers - 24,

b. adding together the weighted results for all categories,

c. dividing the weighted result for each category by the sum of the weighted results for all categories, and

d. equally distributing funding to each applicant in the corresponding category based on the amounts obtained by multiplying the total available funding by the calculated percentages.

B. 1. Pursuant to the provisions of Section 7110.1 of this title, by January 31, 2003, and by January 31 of each year thereafter, the Department shall disburse monies from the Child Abuse Multidisciplinary Account to eligible multidisciplinary child abuse teams and to eligible child advocacy centers. A child advocacy center must be in compliance with the provisions of Section 7110 of this title to be eligible for Child Abuse Multidisciplinary Account funding. The disbursement shall be a single, annual disbursement, for the collection period of the preceding year beginning October 1 through September 30.

2. The Department of Human Services, the Child Abuse Training and Coordinating Council and the Children's Advocacy Centers of Oklahoma, Inc., shall meet annually, after September 30, 2002, to review the amount of CAMA funds to be disbursed.

C. A team or center may carry over funding for a period of one (1) year after allocation, such one-year period to begin in January and end in December of the same year; provided, however, funds not used within twenty-four (24) months of the original allocation will be deducted from the contract amount for the next contract year. If a team or center is ineligible for funding in an upcoming year, unused funds from the current or previous years shall be returned to the CAMA account for use in subsequent years.

D. The Department of Human Services is hereby authorized to receive one half of one percent (0.5%) in administrative costs from the CAMA account.

SECTION 5. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 10th day of May, 2005.

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Presiding Officer of the House
of Representatives

Passed the Senate the 18th day of April, 2005.

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Presiding Officer of the Senate