

CS for EHB 1611

1 THE STATE SENATE  
2 Wednesday, April 13, 2005

3 Committee Substitute for  
4 ENGROSSED  
5 House Bill No. 1611

6 COMMITTEE SUBSTITUTE FOR ENGROSSED HOUSE BILL NO. 1611 - By: ROGGOW  
7 and WESSELHOFT of the House and GUMM of the Senate.

8 [ children - Oklahoma Child Abuse Reporting and Prevention  
9 Act -

10 emergency ]

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

12 SECTION 1. AMENDATORY 10 O.S. 2001, Section 7102, as  
13 amended by Section 1, Chapter 487, O.S.L. 2002 (10 O.S. Supp. 2004,  
14 Section 7102), is amended to read as follows:

15 Section 7102. A. 1. It is the policy of this state to provide  
16 for the protection of children who have been abused or neglected and  
17 who may be further threatened by the conduct of persons responsible  
18 for the health, safety or welfare of such children.

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

- 21 a. in any necessary removal of a child from the home,
- 22 b. in placements of a child required pursuant to the
- 23 Oklahoma Child Abuse Reporting and Prevention Act, and

1           c.    in any administrative or judicial proceeding held  
2                    pursuant to the provisions of the Oklahoma Child Abuse  
3                    Reporting and Prevention Act,  
4   that the best interests of the child shall be of paramount  
5   consideration.

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

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

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

13           a.    nonaccidental physical or mental injury,

14           b.    sexual abuse,

15           c.    sexual exploitation,

16           d.    neglect,

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

19           f.    abandonment;

20          3.    "Neglect" means failure or omission to provide:

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

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

3           c.    abandonment;

4           4.    "Child" means any person under the age of eighteen (18)  
5   years, except any person convicted of a crime specified in Section  
6   7306-1.1 of this title or any person who has been certified as an  
7   adult pursuant to Section 7303-4.3 of this title and convicted of a  
8   felony;

9           5.    "Person responsible for a child's health, safety or welfare"  
10   includes a parent; a legal guardian; a custodian; a foster parent; a  
11   person eighteen (18) years of age or older with whom the child's  
12   parent cohabitates or any other adult residing in the home of the  
13   child; an agent or employee of a public or private residential home,  
14   institution, facility or day treatment program as defined in Section  
15   175.20 of this title; or an owner, operator, or employee of a child  
16   care facility as defined by Section 402 of this title;

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

21          7.    "Sexual exploitation" includes, but is not limited to,  
22   allowing, permitting, or encouraging a child to engage in  
23   prostitution, as defined by law, by a person responsible for the

1 child's health, safety or welfare or allowing, permitting,  
2 encouraging, or engaging in the lewd, obscene, or pornographic  
3 photographing, filming, or depicting of a child in those acts as  
4 defined by the state law, by a person responsible for the child's  
5 health, safety or welfare;

6 8. "Multidisciplinary child abuse team" means any team  
7 established pursuant to the provisions of Section 7110 of this  
8 title;

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

- 14 a. nonurban centers in districts with child populations  
15 that are less than sixty thousand (60,000),
- 16 b. mid-level nonurban centers in districts with child  
17 populations equal to or greater than sixty thousand  
18 (60,000), but not including Oklahoma and Tulsa  
19 Counties, and
- 20 c. urban centers in Oklahoma and Tulsa Counties;

21 10. "Assessment" means a systematic process utilized by the  
22 Department of Human Services to respond to reports of alleged child  
23 abuse or neglect which, according to priority guidelines established

1 by the Department, do not constitute a serious and immediate threat  
2 to the child's health, safety or welfare. The assessment includes,  
3 but is not limited to, the following elements:

- 4 a. an evaluation of the child's safety, and
- 5 b. a determination regarding the family's need for  
6 services;

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

- 13 a. an evaluation of the child's safety or welfare,
- 14 b. a determination whether or not child abuse or neglect  
15 occurred, and
- 16 c. a determination regarding the family's need for  
17 prevention and intervention-related services;

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

21 13. "Services recommended determination" means a report in  
22 which a child protective services worker, after an investigation,  
23 determines the allegations to be unfounded or for which there is

1 insufficient evidence to fully determine whether child abuse or  
2 neglect has occurred, but one in which the Department determines  
3 that the child and the child's family could benefit from receiving  
4 prevention and intervention-related services;

5 14. "Confirmed report - services recommended" means a report  
6 which is determined by a child protective services worker, after an  
7 investigation and based upon some credible evidence, to constitute  
8 child abuse or neglect which is of such a nature that the Department  
9 recommends prevention and intervention-related services for the  
10 parents or persons responsible for the care of the child or  
11 children, but for which initial court intervention is not required;

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

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

21 17. "Department" means the Department of Human Services;

22 18. "Commission" means the Commission for Human Services; and

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

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

7        Section 7105. A. Any person participating in good faith and  
8 exercising due care in the making of a report pursuant to the  
9 provisions of the Oklahoma Child Abuse Reporting and Prevention Act,  
10 or any person who, in good faith and exercising due care, allows  
11 access to a child by persons authorized to investigate a report  
12 concerning the child shall have immunity from any liability, civil  
13 or criminal, that might otherwise be incurred or imposed. Any such  
14 participant shall have the same immunity with respect to  
15 participation in any judicial proceeding resulting from such report.

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

21        C. A child advocacy center that is accredited by the National  
22 Children's Alliance, and the employees thereof, who are acting in  
23 good faith and exercising due care shall have immunity from civil

1 liability that may be incurred or imposed through participation in  
2 the investigation process and any judicial proceeding resulting from  
3 the investigation process.

4 SECTION 3. AMENDATORY 10 O.S. 2001, Section 7110, as  
5 last amended by Section 1, Chapter 117, O.S.L. 2003 (10 O.S. Supp.  
6 2004, Section 7110), is amended to read as follows:

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

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

14 B. The multidisciplinary child abuse team members shall  
15 include, but need not be limited to:

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

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

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

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

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

5           6. The district attorney or assistant district attorney.

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

- 10           a. whenever feasible, law enforcement and child welfare  
11           staff shall conduct joint investigations in an effort  
12           to effectively respond to child abuse reports,
- 13           b. develop a written protocol for investigating child  
14           sexual abuse and child physical abuse or neglect cases  
15           and for interviewing child victims. The purpose of  
16           the protocol shall be to ensure coordination and  
17           cooperation between all agencies involved so as to  
18           increase the efficiency in handling such cases and to  
19           minimize the stress created for the allegedly abused  
20           child by the legal and investigatory process. In  
21           addition, each team shall develop confidentiality  
22           statements and interagency agreements signed by member

1 agencies that specify the cooperative effort of the  
2 member agencies to the team.

3 (1) Freestanding multidisciplinary teams shall be  
4 approved by the Child Abuse Training and  
5 Coordination Council. The Child Abuse Training  
6 and Coordination Council shall conduct an annual  
7 review of freestanding multidisciplinary teams to  
8 ensure that the teams are functioning  
9 effectively. Teams not meeting the minimal  
10 standards as promulgated by the Child Abuse  
11 Training and Coordination Council shall be  
12 removed from the list of functioning teams in the  
13 state.

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

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

22 (b) the multidisciplinary team is reaccredited  
23 along with a child advocacy center by the

1 National Children's Alliance, and in the  
2 third year of accreditation the  
3 multidisciplinary team secures an  
4 independent review of its activities by an  
5 independent reviewer approved by the  
6 National Children's Alliance and the  
7 independent reviewer finds that the child  
8 advocacy center is in substantial compliance  
9 with the same standards used to accredit the  
10 child advocacy center when it was last  
11 reviewed, or

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

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

- 1 d. eliminate duplicative efforts in the investigation and  
2 the prosecution of child abuse and neglect cases,  
3 e. identify gaps in service or all untapped resources  
4 within the community to improve the delivery of  
5 services to the victim and family,  
6 f. encourage the development of expertise through  
7 training. Each team member and those conducting child  
8 abuse investigations and interviews of child abuse  
9 victims shall be trained in the multidisciplinary team  
10 approach, conducting legally sound and age-appropriate  
11 interviews, effective investigation techniques and  
12 joint investigations as provided through the Child  
13 Abuse Training and Coordination Council or other  
14 resources,  
15 g. formalize a case review process and provide data as  
16 requested to the Child Abuse Training and Coordination  
17 Council for freestanding teams, and  
18 h. standardize investigative procedures for the handling  
19 of child abuse and neglect cases.

20 2. All investigations of child sexual abuse and child physical  
21 abuse or neglect and interviews of child abuse or neglect victims  
22 shall be carried out by appropriate personnel using the protocols  
23 and procedures specified in this section.

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

10          D. 1. A multidisciplinary child abuse team may enter into an  
11 agreement with the Child Death Review Board within the Oklahoma  
12 Commission on Children and Youth and, in accordance with rules  
13 promulgated by the Oklahoma Commission on Children and Youth,  
14 conduct case reviews of deaths and near deaths of children within  
15 the geographical area of that multidisciplinary child abuse team.

16          2. Any multidisciplinary child abuse team reviewing deaths and  
17 near deaths of children shall prepare and make available to the  
18 public, on an annual basis, a report containing a summary of the  
19 activities of the team relating to the review of the deaths and near  
20 deaths of children and a summary of the extent to which the state  
21 child protection system is coordinated with foster care and adoption  
22 programs and whether the state is efficiently discharging its child

1 protection responsibilities. The report shall be completed no later  
2 than December 31 of each year.

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

8 F. Such multidisciplinary child abuse team shall have full  
9 access to any service or treatment plan and any personal data known  
10 to the Department which is directly related to the implementation of  
11 this section.

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

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

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

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

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

4 2. Eligible applicants shall include one ~~certified~~ functioning  
5 multidisciplinary child abuse team per county, as provided in  
6 Section 7110 of this title, and one child advocacy center per  
7 district attorney's district, as endorsed by the district attorney,  
8 until such time as the center receives ~~full membership in~~  
9 accreditation by the National Children's Alliance, thus becoming the  
10 Child Advocacy Center for the district attorney's district. A  
11 center in existence prior to December 31, 2000, shall not be subject  
12 to district attorney endorsement. The accredited center shall  
13 remain the center for the district attorney's district as long as  
14 the ~~full membership~~ accreditation is in good standing, with the  
15 existing two district exemptions of established centers; provided,  
16 however, a center in existence prior to December 31, 2000, shall not  
17 be subject to district attorney endorsement. The center application  
18 shall be a combined team and center application maintained pursuant  
19 to the provisions of Section 7110 of this title, and during fifth-  
20 and sixth-year reaccreditation reviews, while a center is eligible  
21 for Child Abuse Multidisciplinary Account funding, and the center  
22 remains the child advocacy center for the district attorney's  
23 district. If a center has not secured reaccreditation during the

1 sixth year pursuant to the provisions of Section 7110 of this title,  
2 endorsement by the district attorney as the child advocacy center  
3 for the district may be sought by any entity beginning with the  
4 calendar year after an unsuccessful sixth-year reaccreditation  
5 attempt. The ~~district exemptions shall include~~ two centers in  
6 district number (4) and district number ~~13~~, with each of these  
7 centers being funded (13) that were accredited as of the effective  
8 date of this act shall continue to receive funding at the nonurban  
9 level. ~~If~~ Should one of the exempted centers ~~eloses~~ close or no  
10 longer meet the definition of a child advocacy center pursuant to  
11 the provisions of Section 7102 of this title, the center shall not  
12 be allowed to reopen in that district or to receive CAMA funds. The  
13 remaining center shall become the sole child advocacy center for the  
14 district attorney's district. Should one of such exempted centers  
15 fail to complete the sixth-year reaccreditation process, the  
16 remaining child advocacy center in the district attorney's district  
17 shall become the sole center for the district with all rights  
18 established in law. The center application shall be a combined team  
19 and center application for statewide purposes.

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

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

- 1 (1) freestanding teams - 1,  
2 (2) nonurban centers - 4,  
3 (3) mid-level nonurban centers - 6, and  
4 (4) urban centers - 24,  
5 b. adding together the weighted results for all  
6 categories,  
7 c. dividing the weighted result for each category by the  
8 sum of the weighted results for all categories, and  
9 d. equally distributing funding to each applicant in the  
10 corresponding category based on the amounts obtained  
11 by multiplying the total available funding by the  
12 calculated percentages.

13 B. 1. Pursuant to the provisions of Section 7110.1 of this  
14 title, by January 31, 2003, and by January 31 of each year  
15 thereafter, the Department shall disburse monies from the Child  
16 Abuse Multidisciplinary Account to eligible multidisciplinary child  
17 abuse teams and to eligible child advocacy centers. A child  
18 advocacy center must be in compliance with the provisions of Section  
19 7110 of this title to be eligible for Child Abuse Multidisciplinary  
20 Account funding. The disbursement shall be a single, annual  
21 disbursement, for the collection period of the preceding year  
22 beginning October 1 through September 30.

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

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

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

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

20 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 4-6-05 - DO  
21 PASS, As Amended.