

1 ENGROSSED SENATE
2 BILL NO. 1830

By: Crain of the Senate
and
Nelson of the House

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6 [children and juveniles - safety of children -
7 referral - exemption - investigation - modifying
8 duties -
9 emergency]

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

12 SECTION 1. AMENDATORY 10 O.S. 2001, Section 7003-1.1, as
13 last amended by Section 4, Chapter 338, O.S.L. 2009, and as
14 renumbered by Section 213, Chapter 233, O.S.L. 2009 (10A O.S. Supp.
15 2009, Section 1-2-102), is amended to read as follows:

16 Section 1-2-102. A. 1. Upon receipt of a report that a child
17 may be abused or neglected, the Department of Human Services shall
18 conduct a safety analysis.

19 2. The Department shall forward a report of its assessment or
20 investigation and findings to any district attorney's office which
21 may have jurisdiction to file a petition pursuant to Section 1-4-902
22 of this title.

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1 B. 1. If, upon receipt of a report alleging abuse or neglect
2 or during the assessment or investigation, the Department determines
3 that:

4 a. the alleged perpetrator is someone other than a person
5 responsible for the child's health, safety, or
6 welfare, and

7 b. the alleged abuse or neglect of the child does not
8 appear to be attributable to failure on the part of a
9 person responsible for the child's health, safety, or
10 welfare to provide protection for the child,

11 the Department shall immediately make a referral, either verbally or
12 in writing, to the appropriate local law enforcement agency for the
13 purpose of conducting a possible criminal investigation.

14 2. After making the referral to the law enforcement agency, the
15 Department shall not be responsible for further investigation
16 unless:

17 a. the Department has reason to believe the alleged
18 perpetrator is a parent of another child, not the
19 subject of the criminal investigation, or is otherwise
20 a person responsible for the health, safety, or
21 welfare of another child,

22 b. notice is received from a law enforcement agency that
23 it has determined the alleged perpetrator is a parent
24 of or a person responsible for the health, safety, or

1 welfare of another child not the subject of the
2 criminal investigation, or

3 c. the appropriate law enforcement agency requests the
4 Department, in writing, to participate in the
5 investigation. If funds and personnel are available,
6 as determined by the Director of the Department or a
7 designee, the Department may assist law enforcement in
8 interviewing children alleged to be victims of
9 physical or sexual abuse.

10 3. If, upon receipt of a report alleging abuse or neglect or
11 during the assessment or investigation, the Department determines
12 that the alleged abuse or neglect of the child involves a child in
13 the custody of the Office of Juvenile Affairs and such child was
14 placed in an Office of Juvenile Affairs secure juvenile facility at
15 the time of the alleged abuse or neglect, the Department shall
16 immediately make a referral, either verbally or in writing, to the
17 appropriate law enforcement agency for the purpose of conducting a
18 possible criminal investigation. After making the referral to the
19 law enforcement agency, the Department shall not be responsible for
20 further investigation.

21 C. 1. Any law enforcement agency receiving a referral as
22 provided in this section shall provide the Department with a copy of
23 the report of any investigation resulting from a referral from the
24 Department.

1 2. Whenever, in the course of any criminal investigation, a law
2 enforcement agency determines that there is cause to believe that a
3 child, other than a child in the custody of the Office of Juvenile
4 Affairs and placed in an Office of Juvenile Affairs secure juvenile
5 facility, may be abused or neglected by reason of the acts,
6 omissions, or failures on the part of a person responsible for the
7 health, safety, or welfare of the child, the law enforcement agency
8 shall immediately contact the Department for the purpose of an
9 investigation.

10 SECTION 2. AMENDATORY 10 O.S. 2001, Section 7004-3.4, as
11 last amended by Section 69, Chapter 233, O.S.L. 2009, and as
12 renumbered by Section 304, Chapter 233, O.S.L. 2009 (10A O.S. Supp.
13 2009, Section 1-9-112), is amended to read as follows:

14 Section 1-9-112. A. 1. The Commission for Human Services is
15 authorized and directed to establish the Office of Client Advocacy
16 within the Department of Human Services and to employ personnel
17 necessary to carry out the purposes of this section and the duties
18 listed in this section. Personnel may be dismissed only for cause.

19 2. The chief administrative officer of the Office of Client
20 Advocacy shall be the Advocate General, who shall be an attorney
21 selected from a list of three names submitted by the Oklahoma
22 Commission on Children and Youth. The Advocate General shall be a
23 member of the Oklahoma Bar Association and shall have a minimum of
24 three (3) years' experience as an attorney. The compensation of the

1 Advocate General shall be no less than that of the classification of
2 Attorney III as established in the Merit System of Personnel
3 Administration classification and compensation plan, but shall be an
4 unclassified position.

5 3. The duties and responsibilities of the Advocate General are
6 to:

- 7 a. supervise personnel assigned to the Office of Client
8 Advocacy,
- 9 b. monitor and review grievance procedures and hearings,
- 10 c. establish and maintain a fair, simple, and expeditious
11 system for resolution of grievances of:

12 (1) all children in the custody of the Department of
13 Human Services regarding:

14 (a) the substance or application of any written
15 or unwritten policy or rule of the
16 Department or agent of the Department, or

17 (b) any decision or action by an employee or
18 agent of the Department, or of any child in
19 the custody of the Department,

20 (2) foster parents relating to the provision of
21 foster care services pursuant to this section and
22 Section 1-9-117 of this title, and
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1 (3) all persons receiving services from the
2 Developmental Disabilities Services Division of
3 the Department of Human Services,

4 d. investigate allegations of abuse, neglect, sexual
5 abuse, and sexual exploitation, as those terms are
6 defined in the Oklahoma Children's Code, by a person
7 responsible for a child, regardless of custody:

8 (1) residing outside their own homes other than
9 children in foster care or children in the
10 custody of the Office of Juvenile Affairs and
11 placed in an Office of Juvenile Affairs secure
12 facility,

13 (2) in a day treatment program as defined in Section
14 175.20 of Title 10 of the Oklahoma Statutes, and
15 submit a report of the results of the
16 investigation to the appropriate district
17 attorney and to the State Department of Health,

18 (3) receiving services from a community services
19 worker as that term is defined in Section 1025.1
20 of Title 56 of the Oklahoma Statutes, and

21 (4) residing in a state institution listed in Section
22 1406 of Title 10 of the Oklahoma Statutes,

23 e. establish a system for investigating allegations of
24 misconduct, by a person responsible for a child, not

- 1 rising to the level of abuse, neglect, sexual abuse,
2 or sexual exploitation with regard to any child or
3 resident listed in subparagraph d of this paragraph,
- 4 f. coordinate any hearings or meetings of Departmental
5 administrative review committees conducted as a result
6 of unresolved grievances or as a result of
7 investigations,
 - 8 g. make recommendations to the Director, and provide
9 regular or special reports regarding grievance
10 procedures, hearings and investigations to the
11 Director, the Commission, the Office of Juvenile
12 System Oversight and other appropriate persons as
13 necessary,
 - 14 h. forward to the Office of Juvenile Systems Oversight,
15 for the information of the Director of that office, a
16 copy of the final report of any grievance which is not
17 resolved in the favor of the complainant,
 - 18 i. perform such other duties as required by the Director
19 of the Department or the Commission, and
 - 20 j. develop policies and procedures as necessary to
21 implement the duties and responsibilities assigned to
22 the Office of Client Advocacy.

23 B. The Office of Client Advocacy shall make a complete written
24 report of their investigations. The investigation report, together

1 with its recommendations, shall be submitted to the appropriate
2 district attorney's office.

3 C. 1. Except as otherwise provided by the Oklahoma Children's
4 Code, the reports required by Section 1-2-101 of this title or any
5 other information acquired pursuant to the Oklahoma Children's Code
6 shall be confidential and may be disclosed only as provided in
7 Section 1-2-108 of this title and the Oklahoma Children's Code.

8 2. Except as otherwise provided by the Oklahoma Children's
9 Code, any violation of the confidentiality requirements of the
10 Oklahoma Children's Code shall, upon conviction, be a misdemeanor
11 punishable by up to six (6) months in jail, by a fine of Five
12 Hundred Dollars (\$500.00), or by both such fine and imprisonment.

13 3. Any records or information disclosed as provided by this
14 subsection shall remain confidential. The use of any information
15 shall be limited to the purpose for which disclosure is authorized.
16 Rules promulgated by the Commission for Human Services shall provide
17 for disclosure of relevant information concerning Office of Client
18 Advocacy investigations to persons or entities acting in an official
19 capacity with regard to the subject of the investigation.

20 4. Nothing in this section shall be construed as prohibiting
21 the Office of Client Advocacy or the Department from disclosing such
22 confidential information as may be necessary to secure appropriate
23 care, treatment, or protection of a child alleged to be abused or
24 neglected.

1 D. 1. The Office of Client Advocacy shall investigate any
2 complaint alleging that an employee of the Department or a child-
3 placing agency has threatened a foster parent with removal of a
4 child from the foster parent, harassed a foster parent, or refused
5 to place a child in a licensed or certified foster home, or
6 disrupted a child placement as retaliation or discrimination towards
7 a foster parent who has:

- 8 a. filed a grievance pursuant to Section 1-9-120 of this
9 title,
- 10 b. provided information to any state official or
11 Department employee, or
- 12 c. testified, assisted, or otherwise participated in an
13 investigation, proceeding, or hearing against the
14 Department or child-placing agency.

15 2. The provisions of this subsection shall not apply to any
16 complaint by a foster parent regarding the result of a criminal,
17 administrative, or civil proceeding for a violation of any law,
18 rule, or contract provision by that foster parent, or the action
19 taken by the Department or a child-placement agency in conformity
20 with the result of any such proceeding.

21 3. The Office of Client Advocacy shall at all times be granted
22 access to any foster home or any child-placing agency which is
23 certified, authorized, or funded by the Department.

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1 SECTION 3. AMENDATORY 10 O.S. 2001, Section 7302-3.2, as
2 amended by Section 8, Chapter 234, O.S.L. 2009, and as renumbered by
3 Section 171, Chapter 234, O.S.L. 2009 (10A O.S. Supp. 2009, Section
4 2-7-302), is amended to read as follows:

5 Section 2-7-302. A. There is hereby established within the
6 Office of Juvenile Affairs the Division of Advocate Defender which
7 will be separate and apart from the Office of General Counsel. The
8 administrative officer of the Division of Advocate Defender shall be
9 the Advocate General, who shall be an attorney with a minimum of
10 three (3) years of experience as an attorney. The Executive
11 Director of the Office of Juvenile Affairs shall employ such other
12 personnel as may be necessary to carry out the purposes of this
13 section. Such personnel may be dismissed only for cause.

14 B. The duties and responsibilities of the Advocate General are
15 as follows:

16 1. Supervise personnel assigned to children's institutions and
17 facilities as student defender/representatives;

18 2. Monitor and review grievance procedures and hearings;

19 3. Investigate grievances of juveniles and staff grievances
20 related to juveniles which are not resolved at the facility level;

21 4. ~~Report~~ In cooperation with the Executive Director, establish
22 a system for investigating allegations of misconduct by a person
23 responsible for a child with regard to any child in the custody of
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1 the Office of Juvenile Affairs and placed in an Office of Juvenile
2 Affairs secure juvenile facility;

3 5. Monitor the system to ensure the appropriate reporting to
4 the Department of Human Services of allegations of abuse or neglect
5 of juveniles who are in the custody of the Office of Juvenile
6 Affairs and placed in private facilities or facilities operated by
7 the Office of Juvenile Affairs; ~~or~~

8 ~~5-~~ 6. Coordinate any hearings or meetings of administrative
9 review committees conducted as a result of unresolved grievances or
10 as a result of investigations;

11 ~~6-~~ 7. Make recommendations to the Executive Director of the
12 Office of Juvenile Affairs, and provide regular or special reports
13 regarding grievance procedures, hearings and investigations to the
14 Executive Director of the Office of Juvenile Affairs, the Office of
15 Juvenile System Oversight and other appropriate persons as
16 necessary;

17 ~~7-~~ 8. Forward to the Office of Juvenile Systems Oversight, for
18 the information of the Executive Director of the Office of Juvenile
19 Systems Oversight, a copy of the final report of a complaint which
20 is not resolved, through the system for resolution of grievances
21 established by the Office of Juvenile Affairs, in the favor of the
22 complainant; and

23 ~~8-~~ 9. Perform such other duties as required by the Executive
24 Director of the Office of Juvenile Affairs.

