

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB2251
Page _____ Section _____ Lines _____
Of the printed Bill
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Pam Peterson

Reading Clerk

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 PROPOSED COMMITTEE
4 SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2251

By: Peterson

7 PROPOSED COMMITTEE SUBSTITUTE

8 An Act relating to children; amending 10A O.S. 2011,
9 Section 1-1-105, which relates to definitions; adding
10 definition; amending 10A O.S. 2011, Section 1-2-102,
11 which relates to child welfare assessments and
12 investigations; requiring safety analysis after
13 receipt of certain allegations; requiring
14 investigations of drug-endangered-children
15 allegations; and providing an effective date.

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

17 SECTION 1. AMENDATORY 10A O.S. 2011, Section 1-1-105, is
18 amended to read as follows:

19 Section 1-1-105. When used in the Oklahoma Children's Code,
20 unless the context otherwise requires:

21 1. "Abandonment" means:

- 22 a. the willful intent by words, actions, or omissions not
23 to return for a child, or
24 b. the failure to maintain a significant parental
relationship with a child through visitation or

1 communication in which incidental or token visits or
2 communication are not considered significant, or
3 c. the failure to respond to notice of deprived
4 proceedings;

5 2. "Abuse" means harm or threatened harm or failure to protect
6 from harm or threatened harm to the health, safety, or welfare of a
7 child by a person responsible for the child's health, safety, or
8 welfare, including but not limited to nonaccidental physical or
9 mental injury, sexual abuse, or sexual exploitation. Provided,
10 however, that nothing contained in this act shall prohibit any
11 parent from using ordinary force as a means of discipline including,
12 but not limited to, spanking, switching, or paddling.

13 a. "Harm or threatened harm to the health or safety of a
14 child" means any real or threatened physical, mental,
15 or emotional injury or damage to the body or mind that
16 is not accidental including but not limited to sexual
17 abuse, sexual exploitation, neglect, or dependency.

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

22 c. "Sexual exploitation" includes but is not limited to
23 allowing, permitting, or encouraging a child to engage
24 in prostitution, as defined by law, by a person

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

7 3. "Adjudication" means a finding by the court that the
8 allegations in a petition alleging that a child is deprived are
9 supported by a preponderance of the evidence;

10 4. "Adjudicatory hearing" means a hearing by the court as
11 provided by Section 1-4-601 of this title;

12 5. "Assessment" means a comprehensive review of child safety
13 and evaluation of family functioning and protective capacities that
14 is conducted in response to a child abuse or neglect referral that
15 does not allege a serious and immediate safety threat to a child;

16 6. "Behavioral health" means mental health, substance abuse, or
17 co-occurring mental health and substance abuse diagnoses, and the
18 continuum of mental health, substance abuse, or co-occurring mental
19 health and substance abuse treatment;

20 7. "Child" means any unmarried person under eighteen (18) years
21 of age;

22 8. "Child advocacy center" means a center and the
23 multidisciplinary child abuse team of which it is a member that is
24 accredited by the National Children's Alliance or that is completing

1 a sixth year of reaccreditation. Child advocacy centers shall be
2 classified, based on the child population of a district attorney's
3 district, as follows:

- 4 a. nonurban centers in districts with child populations
5 that are less than sixty thousand (60,000), and
- 6 b. midlevel nonurban centers in districts with child
7 populations equal to or greater than sixty thousand
8 (60,000), but not including Oklahoma and Tulsa
9 counties;

10 9. "Child with a disability" means any child who has a physical
11 or mental impairment which substantially limits one or more of the
12 major life activities of the child, or who is regarded as having
13 such an impairment by a competent medical professional;

14 10. "Child-placing agency" means an agency that arranges for or
15 places a child in a foster family home, group home, adoptive home,
16 or independent living program;

17 11. "Commission" means the Commission for Human Services;

18 12. "Community-based services" or "community-based programs"
19 means services or programs which maintain community participation or
20 supervision in their planning, operation, and evaluation.

21 Community-based services and programs may include, but are not
22 limited to, emergency shelter, crisis intervention, group work, case
23 supervision, job placement, recruitment and training of volunteers,
24 consultation, medical, educational, home-based services, vocational,

1 social, preventive and psychological guidance, training, counseling,
2 early intervention and diversionary substance abuse treatment,
3 sexual abuse treatment, transitional living, independent living, and
4 other related services and programs;

5 13. "Concurrent permanency planning" means, when indicated, the
6 implementation of two plans for a child entering foster care. One
7 plan focuses on reuniting the parent and child; the other seeks to
8 find a permanent out-of-home placement for the child with both plans
9 being pursued simultaneously;

10 14. "Court-appointed special advocate" or "CASA" means a
11 responsible adult volunteer who has been trained and is supervised
12 by a court-appointed special advocate program recognized by the
13 court, and when appointed by the court, serves as an officer of the
14 court in the capacity as a guardian ad litem;

15 15. "Court-appointed special advocate program" means an
16 organized program, administered by either an independent, not-for-
17 profit corporation, a dependent project of an independent, not-for-
18 profit corporation or a unit of local government, which recruits,
19 screens, trains, assigns, supervises and supports volunteers to be
20 available for appointment by the court as guardians ad litem;

21 16. "Custodian" means an individual other than a parent, legal
22 guardian or Indian custodian, to whom legal custody of the child has
23 been awarded by the court. As used in this title, the term
24

1 "custodian" shall not mean the Oklahoma Department of Human
2 Services;

3 17. "Day treatment" means a nonresidential program which
4 provides intensive services to a child who resides in the child's
5 own home, the home of a relative, group home, a foster home or
6 residential child care facility. Day treatment programs include,
7 but are not limited to, educational services;

8 18. "Department" means the Oklahoma Department of Human
9 Services;

10 19. "Dependency" means a child who is homeless or without
11 proper care or guardianship through no fault of his or her parent,
12 legal guardian, or custodian;

13 20. "Deprived child" means a child:

- 14 a. who is for any reason destitute, homeless, or
15 abandoned,
- 16 b. who does not have the proper parental care or
17 guardianship,
- 18 c. who has been abused, neglected, or is dependent,
- 19 d. whose home is an unfit place for the child by reason
20 of depravity on the part of the parent or legal
21 guardian of the child, or other person responsible for
22 the health or welfare of the child,
- 23 e. who is a child in need of special care and treatment
24 because of the child's physical or mental condition,

1 and the child's parents, legal guardian, or other
2 custodian is unable or willfully fails to provide such
3 special care and treatment. As used in this
4 paragraph, a child in need of special care and
5 treatment includes, but is not limited to, a child who
6 at birth tests positive for alcohol or a controlled
7 dangerous substance and who, pursuant to a drug or
8 alcohol screen of the child and an assessment of the
9 parent, is determined to be at risk of harm or
10 threatened harm to the health or safety of a child,

11 f. who is a child with a disability deprived of the
12 nutrition necessary to sustain life or of the medical
13 treatment necessary to remedy or relieve a life-
14 threatening medical condition in order to cause or
15 allow the death of the child if such nutrition or
16 medical treatment is generally provided to similarly
17 situated children without a disability or children
18 with disabilities; provided that no medical treatment
19 shall be necessary if, in the reasonable medical
20 judgment of the attending physician, such treatment
21 would be futile in saving the life of the child,

22 g. who, due to improper parental care and guardianship,
23 is absent from school as specified in Section 10-106
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1 of Title 70 of the Oklahoma Statutes, if the child is
2 subject to compulsory school attendance,

3 h. whose parent, legal guardian or custodian for good
4 cause desires to be relieved of custody,

5 i. who has been born to a parent whose parental rights to
6 another child have been involuntarily terminated by
7 the court and the conditions which led to the making
8 of the finding, which resulted in the termination of
9 the parental rights of the parent to the other child,
10 have not been corrected, or

11 j. whose parent, legal guardian, or custodian has
12 subjected another child to abuse or neglect or has
13 allowed another child to be subjected to abuse or
14 neglect and is currently a respondent in a deprived
15 proceeding.

16 Nothing in the Oklahoma Children's Code shall be construed to
17 mean a child is deprived for the sole reason the parent, legal
18 guardian, or person having custody or control of a child, in good
19 faith, selects and depends upon spiritual means alone through
20 prayer, in accordance with the tenets and practice of a recognized
21 church or religious denomination, for the treatment or cure of
22 disease or remedial care of such child.

23 Nothing contained in this paragraph shall prevent a court from
24 immediately assuming custody of a child and ordering whatever action

1 may be necessary, including medical treatment, to protect the
2 child's health or welfare;

3 21. "Dispositional hearing" means a hearing by the court as
4 provided by Section 1-4-706 of this title;

5 22. "Drug-endangered child" means a child who is at risk of
6 suffering physical, psychological or sexual harm as a result of the
7 use, possession, distribution, manufacture or cultivation of
8 controlled dangerous substances, or the attempt of any of these
9 acts, by a caretaker of the child. This term shall also include a
10 child whose caretaker's substance abuse interferes with the
11 caretaker's ability to parent and provide a safe and nurturing
12 environment for the child;

13 23. "Emergency custody" means the custody of a child prior to
14 adjudication of the child following issuance of an order of the
15 district court pursuant to Section 1-4-201 of this title or
16 following issuance of an order of the district court pursuant to an
17 emergency custody hearing, as specified by Section 1-4-203 of this
18 title;

19 ~~23.~~ 24. "Facility" means a place, an institution, a building or
20 part thereof, a set of buildings, or an area whether or not
21 enclosing a building or set of buildings used for the lawful custody
22 and treatment of children;

23 ~~24.~~ 25. "Foster care" or "foster care services" means
24 continuous twenty-four-hour care and supportive services provided

1 for a child in foster placement including, but not limited to, the
2 care, supervision, guidance, and rearing of a foster child by the
3 foster parent;

4 ~~25.~~ 26. "Foster family home" means the private residence of a
5 foster parent who provides foster care services to a child. Such
6 term shall include a nonkinship foster family home, a therapeutic
7 foster family home, or the home of a relative or other kinship care
8 home;

9 ~~26.~~ 27. "Foster parent eligibility assessment" includes a
10 criminal background investigation including, but not limited to, a
11 national criminal history records search based upon the submission
12 of fingerprints, home assessments, and any other assessment required
13 by the Department of Human Services, the Office of Juvenile Affairs,
14 or any child-placing agency pursuant to the provisions of the
15 Oklahoma Child Care Facilities Licensing Act;

16 ~~27.~~ 28. "Guardian ad litem" means a person appointed by the
17 court pursuant to the provisions of Section 1-4-306 of this title
18 having those duties and responsibilities as set forth in that
19 section. The term "guardian ad litem" shall refer to a court-
20 appointed special advocate as well as to any other person appointed
21 pursuant to the provisions of Section 1-4-306 of this title to serve
22 as a guardian ad litem;

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1 ~~28.~~ 29. "Guardian ad litem of the estate of the child" means a
2 person appointed by the court to protect the property interests of a
3 child pursuant to Section 1-8-109 of this title;

4 ~~29.~~ 30. "Group home" means a residential facility licensed by
5 the Department to provide full-time care and community-based
6 services for more than five but fewer than thirteen children;

7 ~~30.~~ 31. "Harm or threatened harm to the health or safety of a
8 child" means any real or threatened physical, mental, or emotional
9 injury or damage to the body or mind that is not accidental
10 including, but not limited to, sexual abuse, sexual exploitation,
11 neglect, or dependency;

12 ~~31.~~ 32. "Heinous and shocking abuse" includes, but is not
13 limited to, aggravated physical abuse that results in serious
14 bodily, mental, or emotional injury. "Serious bodily injury" means
15 injury that involves:

- 16 a. a substantial risk of death,
- 17 b. extreme physical pain,
- 18 c. protracted disfigurement,
- 19 d. a loss or impairment of the function of a body member,
20 organ, or mental faculty,
- 21 e. an injury to an internal or external organ or the
22 body,
- 23 f. a bone fracture,
- 24 g. sexual abuse or sexual exploitation,

- 1 h. chronic abuse including, but not limited to, physical,
2 emotional, or sexual abuse, or sexual exploitation
3 which is repeated or continuing,
4 i. torture that includes, but is not limited to,
5 inflicting, participating in or assisting in
6 inflicting intense physical or emotional pain upon a
7 child repeatedly over a period of time for the purpose
8 of coercing or terrorizing a child or for the purpose
9 of satisfying the craven, cruel, or prurient desires
10 of the perpetrator or another person, or
11 j. any other similar aggravated circumstance;

12 ~~32.~~ 33. "Heinous and shocking neglect" includes, but is not
13 limited to:

- 14 a. chronic neglect that includes, but is not limited to,
15 a persistent pattern of family functioning in which
16 the caregiver has not met or sustained the basic needs
17 of a child which results in harm to the child,
18 b. neglect that has resulted in a diagnosis of the child
19 as a failure to thrive,
20 c. an act or failure to act by a parent that results in
21 the death or near death of a child or sibling, serious
22 physical or emotional harm, sexual abuse, sexual
23 exploitation, or presents an imminent risk of serious
24 harm to a child, or

1 d. any other similar aggravating circumstance;

2 ~~33.~~ 34. "Independent living program" means a program

3 specifically designed to assist a child to enhance those skills and

4 abilities necessary for successful adult living. An independent

5 living program may include, but shall not be limited to, such

6 features as minimal direct staff supervision, and the provision of

7 supportive services to assist children with activities necessary for

8 finding an appropriate place of residence, completing an education

9 or vocational training, obtaining employment, or obtaining other

10 similar services;

11 ~~34.~~ 35. "Individualized service plan" means a document written

12 pursuant to Section 1-4-704 of this title that has the same meaning

13 as "service plan" or "treatment plan" where those terms are used in

14 the Oklahoma Children's Code;

15 ~~35.~~ 36. "Infant" means a child who is twelve (12) months of age

16 or younger;

17 ~~36.~~ 37. "Institution" means a residential facility offering

18 care and treatment for more than twenty residents;

19 ~~37.~~ 38.

20 a. "Investigation" means a response to an allegation of

21 abuse or neglect that involves a serious and immediate

22 threat to the safety of the child, making it necessary

23 to determine:

- 1 (1) the current safety of a child and the risk of
- 2 subsequent abuse or neglect, and
- 3 (2) whether child abuse or neglect occurred and
- 4 whether the family needs prevention- and
- 5 intervention-related services.

6 b. "Investigation" results in a written response stating
7 one of the following findings:

8 (1) "Substantiated - Court intervention recommended"
9 means a report that is determined by a child
10 protective services worker, after an
11 investigation and based upon some credible
12 evidence, to constitute child abuse or neglect
13 which is of such a nature that the Department
14 finds that the health, safety, or welfare of the
15 child is threatened,

16 (2) "Substantiated - Services recommended" means a
17 report that is determined by a child protective
18 services worker, after an investigation and based
19 upon some credible evidence, to constitute child
20 abuse or neglect which is of such a nature that
21 the Department recommends prevention- and
22 intervention-related services for the parents or
23 persons responsible for the care of the child or
24

1 children, but for which initial court
2 intervention is not required,

3 (3) "Unsubstantiated - Services recommended" means a
4 report in which a child protective services
5 worker, after an investigation, determines there
6 is insufficient evidence to fully determine
7 whether child abuse or neglect has occurred, but
8 one in which the Department determines that the
9 child and the family of the child could benefit
10 from receiving child abuse and neglect
11 prevention- and intervention-related services, or

12 (4) "Ruled out" means a report in which a child
13 protective services worker, after an
14 investigation, determines that no child abuse or
15 neglect has occurred;

16 ~~38.~~ 39. "Kinship care" means full-time care of a child by a
17 kinship relation;

18 ~~39.~~ 40. "Kinship guardianship" means a permanent guardianship
19 as defined in this section;

20 ~~40.~~ 41. "Kinship relation" or "kinship relationship" means
21 relatives, stepparents, or other responsible adults who have a bond
22 or tie with a child and/or to whom has been ascribed a family
23 relationship role with the child's parents or the child; provided,

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1 | however, in cases where the Indian Child Welfare Act applies, the
2 | definitions contained in 25 U.S.C., Section 1903 shall control;

3 | ~~41.~~ 42. "Mental health facility" means a mental health or
4 | substance abuse treatment facility as defined by the Inpatient
5 | Mental Health and Substance Abuse Treatment of Minors Act;

6 | ~~42.~~ 43. "Minor" means the same as the term "child" as defined
7 | in this section;

8 | ~~43.~~ 44. "Minor in need of treatment" means a child in need of
9 | mental health or substance abuse treatment as defined by the
10 | Inpatient Mental Health and Substance Abuse Treatment of Minors Act;

11 | ~~44.~~ 45. "Multidisciplinary child abuse team" means any team
12 | established pursuant to Section 1-9-102 of this title of three or
13 | more persons who are trained in the prevention, identification,
14 | investigation, prosecution, and treatment of physical and sexual
15 | child abuse and who are qualified to facilitate a broad range of
16 | prevention and intervention-related services and services related to
17 | child abuse. For purposes of this definition, "freestanding" means
18 | a team not used by a child advocacy center for its accreditation;

19 | ~~45.~~ 46. "Near death" means a child is in serious or critical
20 | condition, as certified by a physician, as a result of abuse or
21 | neglect;

22 | ~~46.~~ 47. "Neglect" means:

- 23 | a. the failure or omission to provide any of the
24 | following:

- 1 (1) adequate nurturance and affection, food,
- 2 clothing, shelter, sanitation, hygiene, or
- 3 appropriate education,
- 4 (2) medical, dental, or behavioral health care,
- 5 (3) supervision or appropriate caretakers, or
- 6 (4) special care made necessary by the physical or
- 7 mental condition of the child,

8 b. the failure or omission to protect a child from
9 exposure to any of the following:

- 10 (1) the use, possession, sale, or manufacture of
- 11 illegal drugs,
- 12 (2) illegal activities, or
- 13 (3) sexual acts or materials that are not age-
- 14 appropriate, or

15 c. abandonment.

16 Nothing in this paragraph shall be construed to mean a child is
17 abused or neglected for the sole reason the parent, legal guardian
18 or person having custody or control of a child, in good faith,
19 selects and depends upon spiritual means alone through prayer, in
20 accordance with the tenets and practice of a recognized church or
21 religious denomination, for the treatment or cure of disease or
22 remedial care of such child. Nothing contained in this paragraph
23 shall prevent a court from immediately assuming custody of a child,
24 pursuant to the Oklahoma Children's Code, and ordering whatever

1 action may be necessary, including medical treatment, to protect the
2 child's health or welfare;

3 ~~47.~~ 48. "Permanency hearing" means a hearing by the court
4 pursuant to Section 1-4-811 of this title;

5 ~~48.~~ 49. "Permanent custody" means the court-ordered custody of
6 an adjudicated deprived child when a parent-child relationship no
7 longer exists due to termination of parental rights or due to the
8 death of a parent or parents;

9 ~~49.~~ 50. "Permanent guardianship" means a judicially created
10 relationship between a child, a kinship relation of the child, or
11 other adult established pursuant to the provisions of Section 1-4-
12 709 of this title;

13 ~~50.~~ 51. "Person responsible for a child's health, safety, or
14 welfare" includes a parent; a legal guardian; custodian; a foster
15 parent; a person eighteen (18) years of age or older with whom the
16 child's parent cohabitates or any other adult residing in the home
17 of the child; an agent or employee of a public or private
18 residential home, institution, facility or day treatment program as
19 defined in Section 175.20 of Title 10 of the Oklahoma Statutes; or
20 an owner, operator, or employee of a child care facility as defined
21 by Section 402 of Title 10 of the Oklahoma Statutes;

22 ~~51.~~ 52. "Protective custody" means custody of a child taken by
23 a law enforcement officer or designated employee of the court
24 without a court order;

1 ~~52.~~ 53. "Putative father" means an alleged father as that term
2 is defined in Section 7700-102 of Title 10 of the Oklahoma Statutes;

3 ~~53.~~ 54. "Relative" means a grandparent, great-grandparent,
4 brother or sister of whole or half blood, aunt, uncle or any other
5 person related to the child;

6 ~~54.~~ 55. "Residential child care facility" means a twenty-four-
7 hour residential facility where children live together with or are
8 supervised by adults who are not their parents or relatives;

9 ~~55.~~ 56. "Review hearing" means a hearing by the court pursuant
10 to Section 1-4-807 of this title;

11 ~~56.~~ 57. "Risk" means the likelihood that an incident of child
12 abuse or neglect will occur in the future;

13 ~~57.~~ 58. "Safety threat" means the threat of serious harm due to
14 child abuse or neglect occurring in the present or in the very near
15 future and without the intervention of another person, a child would
16 likely or in all probability sustain severe or permanent disability
17 or injury, illness, or death;

18 ~~58.~~ 59. "Safety analysis" means action taken by the Department
19 in response to a report of alleged child abuse or neglect that may
20 include an assessment or investigation based upon an analysis of the
21 information received according to priority guidelines and other
22 criteria adopted by the Department;

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1 ~~59.~~ 60. "Safety evaluation" means evaluation of a child's
2 situation by the Department using a structured, evidence-based tool
3 to determine if the child is subject to a safety threat;

4 ~~60.~~ 61. "Secure facility" means a facility which is designed
5 and operated to ensure that all entrances and exits from the
6 facility are subject to the exclusive control of the staff of the
7 facility, whether or not the juvenile being detained has freedom of
8 movement within the perimeter of the facility, or a facility which
9 relies on locked rooms and buildings, fences, or physical restraint
10 in order to control behavior of its residents;

11 ~~61.~~ 62. "Sibling" means a biologically or legally related
12 brother or sister of a child;

13 ~~62.~~ 63. "Specialized foster care" means foster care provided to
14 a child in a foster home or agency-contracted home which:

- 15 a. has been certified by the Developmental Disabilities
16 Services Division of the Department of Human Services,
17 b. is monitored by the Division, and
18 c. is funded through the Home- and Community-Based Waiver
19 Services Program administered by the Division;

20 ~~63.~~ 64. "Temporary custody" means court-ordered custody of an
21 adjudicated deprived child;

22 ~~64.~~ 65. "Therapeutic foster family home" means a foster family
23 home which provides specific treatment services, pursuant to a
24 therapeutic foster care contract, which are designed to remedy

1 social and behavioral problems of a foster child residing in the
2 home;

3 ~~65.~~ 66. "Transitional living program" means a residential
4 program that may be attached to an existing facility or operated
5 solely for the purpose of assisting children to develop the skills
6 and abilities necessary for successful adult living. The program
7 may include, but shall not be limited to, reduced staff supervision,
8 vocational training, educational services, employment and employment
9 training, and other appropriate independent living skills training
10 as a part of the transitional living program; and

11 ~~66.~~ 67. "Voluntary foster care placement" means the temporary
12 placement of a child by the parent, legal guardian or custodian of
13 the child in foster care pursuant to a signed placement agreement
14 between the Department or a child-placing agency and the child's
15 parent, legal guardian or custodian.

16 SECTION 2. AMENDATORY 10A O.S. 2011, Section 1-2-102, is
17 amended to read as follows:

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

21 2. The Department shall forward a report of its assessment or
22 investigation and findings to any district attorney's office which
23 may have jurisdiction to file a petition pursuant to Section 1-4-101
24 of this title.

1 3. Whenever the Department determines there is a child that
2 meets the definition of a "drug-endangered child", as defined in
3 Section 1-1-105 of this title, or a child has been diagnosed with
4 fetal alcohol syndrome, the Department shall conduct an
5 investigation of the allegations and shall not limit the evaluation
6 of the circumstances to an assessment.

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

10 a. the alleged perpetrator is someone other than a person
11 responsible for the child's health, safety, or
12 welfare, and

13 b. the alleged abuse or neglect of the child does not
14 appear to be attributable to failure on the part of a
15 person responsible for the child's health, safety, or
16 welfare to provide protection for the child,

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

20 2. After making the referral to the law enforcement agency, the
21 Department shall not be responsible for further investigation
22 unless:

23 a. the Department has reason to believe the alleged
24 perpetrator is a parent of another child, not the

1 subject of the criminal investigation, or is otherwise
2 a person responsible for the health, safety, or
3 welfare of another child,

4 b. notice is received from a law enforcement agency that
5 it has determined the alleged perpetrator is a parent
6 of or a person responsible for the health, safety, or
7 welfare of another child not the subject of the
8 criminal investigation, or

9 c. the appropriate law enforcement agency requests the
10 Department, in writing, to participate in the
11 investigation. If funds and personnel are available,
12 as determined by the Director of the Department or a
13 designee, the Department may assist law enforcement in
14 interviewing children alleged to be victims of
15 physical or sexual abuse.

16 3. If, upon receipt of a report alleging abuse or neglect or
17 during the assessment or investigation, the Department determines
18 that the alleged abuse or neglect of the child involves a child in
19 the custody of the Office of Juvenile Affairs and such child was
20 placed in an Office of Juvenile Affairs secure juvenile facility at
21 the time of the alleged abuse or neglect, the Department shall
22 immediately make a referral, either verbally or in writing, to the
23 appropriate law enforcement agency for the purpose of conducting a
24 possible criminal investigation. After making the referral to the

1 law enforcement agency, the Department shall not be responsible for
2 further investigation.

3 C. 1. Any law enforcement agency receiving a referral as
4 provided in this section shall provide the Department with a copy of
5 the report of any investigation resulting from a referral from the
6 Department.

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

16 D. If, upon receipt of a report alleging abuse or neglect, the
17 Department determines that the family has been the subject of a
18 deprived petition, the Department shall conduct a thorough
19 investigation of the allegations and shall not limit the evaluation
20 of the circumstances to an assessment. In addition, if the family
21 has been the subject of three or more referrals, the Department
22 shall conduct a thorough investigation of the allegations and shall
23 not limit the evaluation of the circumstances to an assessment.

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SECTION 3. This act shall become effective November 1, 2012.

53-2-9493 SDR 02/16/12