

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 2251

By: Peterson

4  
5  
6 AS INTRODUCED

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

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

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

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

20 1. "Abandonment" means:

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

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" is a child who is exposed to the  
6 hazardous lifestyle associated with drug abuse and related behaviors  
7 that put the child at risk of suffering physical, psychological or  
8 sexual abuse as a result of the use, possession, distribution,  
9 manufacture or cultivation of controlled substances, or the attempt  
10 of any of these crimes, as defined in the Uniform Controlled  
11 Dangerous Substances Act in Title 63 of the Oklahoma Statutes. This  
12 definition shall include newborns who test positive for a controlled  
13 dangerous substance, with the exception of those substances  
14 administered under the care of a physician;

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

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

1       ~~24.~~ 25. "Foster care" or "foster care services" means  
2 continuous twenty-four-hour care and supportive services provided  
3 for a child in foster placement including, but not limited to, the  
4 care, supervision, guidance, and rearing of a foster child by the  
5 foster parent;

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

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

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

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,

24

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;

23

24

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, the Department shall conduct a  
4 thorough investigation of the allegations and shall not limit the  
5 evaluation of the circumstances to an assessment.

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

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

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

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

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

22           a. the Department has reason to believe the alleged  
23           perpetrator is a parent of another child, not the  
24           subject of the criminal investigation, or is otherwise

1 a person responsible for the health, safety, or  
2 welfare of another child,

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

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

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

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.

53-2-8770            SDR            01/03/12