

1 STATE OF OKLAHOMA

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

3 SENATE BILL 1426

By: Simpson

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5
6 AS INTRODUCED

7 An Act relating to multidisciplinary child abuse
8 teams; amending 10A O.S. 2011, Section 1-1-105, which
9 relates to definitions; modifying definitions related
10 to multidisciplinary child abuse teams; requiring
11 certain disbursements to comply with certain
12 provisions; providing for codification; and providing
13 an effective date.

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

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

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

19 1. "Abandonment" means:

20 a. the willful intent by words, actions, or omissions not
21 to return for a child, or

22 b. the failure to maintain a significant parental
23 relationship with a child through visitation or
24 communication in which incidental or token visits or
communication are not considered significant, or

1 c. the failure to respond to notice of deprived
2 proceedings;

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

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

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

20 c. "Sexual exploitation" includes but is not limited to
21 allowing, permitting, or encouraging a child to engage
22 in prostitution, as defined by law, by a person
23 responsible for the health, safety, or welfare of a
24 child, or allowing, permitting, encouraging, or

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

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

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

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

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

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

20 8. "Child advocacy center" means a center and the
21 multidisciplinary child abuse team of which it is a member that is
22 accredited by the National Children's Alliance or that is completing
23 a sixth year of reaccreditation. Child advocacy centers shall be
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1 classified, based on the child population of a district attorney's
2 district, as follows:

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

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

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

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

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

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

1 early intervention and diversionary substance abuse treatment,
2 sexual abuse treatment, transitional living, independent living, and
3 other related services and programs;

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

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

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

20 16. "Custodian" means an individual other than a parent, legal
21 guardian or Indian custodian, to whom legal custody of the child has
22 been awarded by the court. As used in this title, the term
23 "custodian" shall not mean the Oklahoma Department of Human
24 Services;

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

6 18. "Department" means the Oklahoma Department of Human
7 Services;

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

11 20. "Deprived child" means a child:

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

1 special care and treatment. As used in this
2 paragraph, a child in need of special care and
3 treatment includes, but is not limited to, a child who
4 at birth tests positive for alcohol or a controlled
5 dangerous substance and who, pursuant to a drug or
6 alcohol screen of the child and an assessment of the
7 parent, is determined to be at risk of harm or
8 threatened harm to the health or safety of a child,
9 f. who is a child with a disability deprived of the
10 nutrition necessary to sustain life or of the medical
11 treatment necessary to remedy or relieve a life-
12 threatening medical condition in order to cause or
13 allow the death of the child if such nutrition or
14 medical treatment is generally provided to similarly
15 situated children without a disability or children
16 with disabilities; provided that no medical treatment
17 shall be necessary if, in the reasonable medical
18 judgment of the attending physician, such treatment
19 would be futile in saving the life of the child,
20 g. who, due to improper parental care and guardianship,
21 is absent from school as specified in Section 10-106
22 of Title 70 of the Oklahoma Statutes, if the child is
23 subject to compulsory school attendance,
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- 1 h. whose parent, legal guardian or custodian for good
2 cause desires to be relieved of custody,
3 i. who has been born to a parent whose parental rights to
4 another child have been involuntarily terminated by
5 the court and the conditions which led to the making
6 of the finding, which resulted in the termination of
7 the parental rights of the parent to the other child,
8 have not been corrected, or
9 j. whose parent, legal guardian, or custodian has
10 subjected another child to abuse or neglect or has
11 allowed another child to be subjected to abuse or
12 neglect and is currently a respondent in a deprived
13 proceeding.

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

21 Nothing contained in this paragraph shall prevent a court from
22 immediately assuming custody of a child and ordering whatever action
23 may be necessary, including medical treatment, to protect the
24 child's health or welfare;

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

3 22. "Emergency custody" means the custody of a child prior to
4 adjudication of the child following issuance of an order of the
5 district court pursuant to Section 1-4-201 of this title or
6 following issuance of an order of the district court pursuant to an
7 emergency custody hearing, as specified by Section 1-4-203 of this
8 title;

9 23. "Facility" means a place, an institution, a building or
10 part thereof, a set of buildings, or an area whether or not
11 enclosing a building or set of buildings used for the lawful custody
12 and treatment of children;

13 24. "Foster care" or "foster care services" means continuous
14 twenty-four-hour care and supportive services provided for a child
15 in foster placement including, but not limited to, the care,
16 supervision, guidance, and rearing of a foster child by the foster
17 parent;

18 25. "Foster family home" means the private residence of a
19 foster parent who provides foster care services to a child. Such
20 term shall include a nonkinship foster family home, a therapeutic
21 foster family home, or the home of a relative or other kinship care
22 home;

23 26. "Foster parent eligibility assessment" includes a criminal
24 background investigation including, but not limited to, a national

1 criminal history records search based upon the submission of
2 fingerprints, home assessments, and any other assessment required by
3 the Department of Human Services, the Office of Juvenile Affairs, or
4 any child-placing agency pursuant to the provisions of the Oklahoma
5 Child Care Facilities Licensing Act;

6 27. "Guardian ad litem" means a person appointed by the court
7 pursuant to the provisions of Section 1-4-306 of this title having
8 those duties and responsibilities as set forth in that section. The
9 term "guardian ad litem" shall refer to a court-appointed special
10 advocate as well as to any other person appointed pursuant to the
11 provisions of Section 1-4-306 of this title to serve as a guardian
12 ad litem;

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

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

19 30. "Harm or threatened harm to the health or safety of a
20 child" means any real or threatened physical, mental, or emotional
21 injury or damage to the body or mind that is not accidental
22 including, but not limited to, sexual abuse, sexual exploitation,
23 neglect, or dependency;

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1 31. "Heinous and shocking abuse" includes, but is not limited
2 to, aggravated physical abuse that results in serious bodily,
3 mental, or emotional injury. "Serious bodily injury" means injury
4 that involves:

- 5 a. a substantial risk of death,
- 6 b. extreme physical pain,
- 7 c. protracted disfigurement,
- 8 d. a loss or impairment of the function of a body member,
9 organ, or mental faculty,
- 10 e. an injury to an internal or external organ or the
11 body,
- 12 f. a bone fracture,
- 13 g. sexual abuse or sexual exploitation,
- 14 h. chronic abuse including, but not limited to, physical,
15 emotional, or sexual abuse, or sexual exploitation
16 which is repeated or continuing,
- 17 i. torture that includes, but is not limited to,
18 inflicting, participating in or assisting in
19 inflicting intense physical or emotional pain upon a
20 child repeatedly over a period of time for the purpose
21 of coercing or terrorizing a child or for the purpose
22 of satisfying the craven, cruel, or prurient desires
23 of the perpetrator or another person, or
- 24 j. any other similar aggravated circumstance;

1 32. "Heinous and shocking neglect" includes, but is not limited
2 to:

- 3 a. chronic neglect that includes, but is not limited to,
4 a persistent pattern of family functioning in which
5 the caregiver has not met or sustained the basic needs
6 of a child which results in harm to the child,
- 7 b. neglect that has resulted in a diagnosis of the child
8 as a failure to thrive,
- 9 c. an act or failure to act by a parent that results in
10 the death or near death of a child or sibling, serious
11 physical or emotional harm, sexual abuse, sexual
12 exploitation, or presents an imminent risk of serious
13 harm to a child, or
- 14 d. any other similar aggravating circumstance;

15 33. "Independent living program" means a program specifically
16 designed to assist a child to enhance those skills and abilities
17 necessary for successful adult living. An independent living
18 program may include, but shall not be limited to, such features as
19 minimal direct staff supervision, and the provision of supportive
20 services to assist children with activities necessary for finding an
21 appropriate place of residence, completing an education or
22 vocational training, obtaining employment, or obtaining other
23 similar services;

1 34. "Individualized service plan" means a document written
2 pursuant to Section 1-4-704 of this title that has the same meaning
3 as "service plan" or "treatment plan" where those terms are used in
4 the Oklahoma Children's Code;

5 35. "Infant" means a child who is twelve (12) months of age or
6 younger;

7 36. "Institution" means a residential facility offering care
8 and treatment for more than twenty residents;

9 37. a. "Investigation" means a response to an allegation of
10 abuse or neglect that involves a serious and immediate
11 threat to the safety of the child, making it necessary
12 to determine:

13 (1) the current safety of a child and the risk of
14 subsequent abuse or neglect, and

15 (2) whether child abuse or neglect occurred and
16 whether the family needs prevention- and
17 intervention-related services.

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

20 (1) "Substantiated - Court intervention recommended"
21 means a report that is determined by a child
22 protective services worker, after an
23 investigation and based upon some credible
24 evidence, to constitute child abuse or neglect

1 which is of such a nature that the Department
2 finds that the health, safety, or welfare of the
3 child is threatened,

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

14 (3) "Unsubstantiated - Services recommended" means a
15 report in which a child protective services
16 worker, after an investigation, determines there
17 is insufficient evidence to fully determine
18 whether child abuse or neglect has occurred, but
19 one in which the Department determines that the
20 child and the family of the child could benefit
21 from receiving child abuse and neglect
22 prevention- and intervention-related services, or

23 (4) "Ruled out" means a report in which a child
24 protective services worker, after an

1 investigation, determines that no child abuse or
2 neglect has occurred;

3 38. "Kinship care" means full-time care of a child by a kinship
4 relation;

5 39. "Kinship guardianship" means a permanent guardianship as
6 defined in this section;

7 40. "Kinship relation" or "kinship relationship" means
8 relatives, stepparents, or other responsible adults who have a bond
9 or tie with a child and/or to whom has been ascribed a family
10 relationship role with the child's parents or the child; provided,
11 however, in cases where the Indian Child Welfare Act applies, the
12 definitions contained in 25 U.S.C., Section 1903 shall control;

13 41. "Mental health facility" means a mental health or substance
14 abuse treatment facility as defined by the Inpatient Mental Health
15 and Substance Abuse Treatment of Minors Act;

16 42. "Minor" means the same as the term "child" as defined in
17 this section;

18 43. "Minor in need of treatment" means a child in need of
19 mental health or substance abuse treatment as defined by the
20 Inpatient Mental Health and Substance Abuse Treatment of Minors Act;

21 44. "Multidisciplinary child abuse team" means any freestanding
22 team established pursuant to the provisions of Section 1-9-102 of
23 this title ~~of three or more persons who are trained in the~~
24 ~~prevention, identification, investigation, prosecution, and~~

1 ~~treatment of physical and sexual child abuse and who are qualified~~
2 ~~to facilitate a broad range of prevention and intervention-related~~
3 ~~services and services related to child abuse.~~ For purposes of this
4 definition, "freestanding" means a team not used by a child advocacy
5 center for its accreditation;

6 45. "Near death" means a child is in serious or critical
7 condition, as certified by a physician, as a result of abuse or
8 neglect;

9 46. "Neglect" means:

10 a. the failure or omission to provide any of the
11 following:

- 12 (1) adequate nurturance and affection, food,
13 clothing, shelter, sanitation, hygiene, or
14 appropriate education,
- 15 (2) medical, dental, or behavioral health care,
- 16 (3) supervision or appropriate caretakers, or
- 17 (4) special care made necessary by the physical or
18 mental condition of the child,

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

- 21 (1) the use, possession, sale, or manufacture of
22 illegal drugs,
- 23 (2) illegal activities, or

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1 (3) sexual acts or materials that are not age-
2 appropriate, or

3 c. abandonment.

4 Nothing in this paragraph shall be construed to mean a child is
5 abused or neglected for the sole reason the parent, legal guardian
6 or person having custody or control of a child, in good faith,
7 selects and depends upon spiritual means alone through prayer, in
8 accordance with the tenets and practice of a recognized church or
9 religious denomination, for the treatment or cure of disease or
10 remedial care of such child. Nothing contained in this paragraph
11 shall prevent a court from immediately assuming custody of a child,
12 pursuant to the Oklahoma Children's Code, and ordering whatever
13 action may be necessary, including medical treatment, to protect the
14 child's health or welfare;

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

17 48. "Permanent custody" means the court-ordered custody of an
18 adjudicated deprived child when a parent-child relationship no
19 longer exists due to termination of parental rights or due to the
20 death of a parent or parents;

21 49. "Permanent guardianship" means a judicially created
22 relationship between a child, a kinship relation of the child, or
23 other adult established pursuant to the provisions of Section 1-4-
24 709 of this title;

1 50. "Person responsible for a child's health, safety, or
2 welfare" includes a parent; a legal guardian; custodian; a foster
3 parent; a person eighteen (18) years of age or older with whom the
4 child's parent cohabitates or any other adult residing in the home
5 of the child; an agent or employee of a public or private
6 residential home, institution, facility or day treatment program as
7 defined in Section 175.20 of Title 10 of the Oklahoma Statutes; or
8 an owner, operator, or employee of a child care facility as defined
9 by Section 402 of Title 10 of the Oklahoma Statutes;

10 51. "Protective custody" means custody of a child taken by a
11 law enforcement officer or designated employee of the court without
12 a court order;

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

15 53. "Relative" means a grandparent, great-grandparent, brother
16 or sister of whole or half blood, aunt, uncle or any other person
17 related to the child;

18 54. "Residential child care facility" means a twenty-four-hour
19 residential facility where children live together with or are
20 supervised by adults who are not their parents or relatives;

21 55. "Review hearing" means a hearing by the court pursuant to
22 Section 1-4-807 of this title;

23 56. "Risk" means the likelihood that an incident of child abuse
24 or neglect will occur in the future;

1 57. "Safety threat" means the threat of serious harm due to
2 child abuse or neglect occurring in the present or in the very near
3 future and without the intervention of another person, a child would
4 likely or in all probability sustain severe or permanent disability
5 or injury, illness, or death;

6 58. "Safety analysis" means action taken by the Department in
7 response to a report of alleged child abuse or neglect that may
8 include an assessment or investigation based upon an analysis of the
9 information received according to priority guidelines and other
10 criteria adopted by the Department;

11 59. "Safety evaluation" means evaluation of a child's situation
12 by the Department using a structured, evidence-based tool to
13 determine if the child is subject to a safety threat;

14 60. "Secure facility" means a facility which is designed and
15 operated to ensure that all entrances and exits from the facility
16 are subject to the exclusive control of the staff of the facility,
17 whether or not the juvenile being detained has freedom of movement
18 within the perimeter of the facility, or a facility which relies on
19 locked rooms and buildings, fences, or physical restraint in order
20 to control behavior of its residents;

21 61. "Sibling" means a biologically or legally related brother
22 or sister of a child;

23 62. "Specialized foster care" means foster care provided to a
24 child in a foster home or agency-contracted home which:

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

63. "Temporary custody" means court-ordered custody of an adjudicated deprived child;

64. "Therapeutic foster family home" means a foster family home which provides specific treatment services, pursuant to a therapeutic foster care contract, which are designed to remedy social and behavioral problems of a foster child residing in the home;

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

66. "Voluntary foster care placement" means the temporary placement of a child by the parent, legal guardian or custodian of the child in foster care pursuant to a signed placement agreement

1 between the Department or a child-placing agency and the child's
2 parent, legal guardian or custodian.

3 SECTION 2. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 1-9-102.1 of Title 10A, unless
5 there is created a duplication in numbering, reads as follows:

6 Disbursements appropriated and/or deposited into the Child Abuse
7 Multidisciplinary Account must comply with this section and Sections
8 1-9-102, 1-9-103 and 1-9-104 of Title 10A of the Oklahoma Statutes
9 for funds to be issued to freestanding multidisciplinary teams and
10 child advocacy centers.

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

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