

STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 993

By: Griffin of the Senate

and

Wright of the House

COMMITTEE SUBSTITUTE

An Act relating to vulnerable adults; amending 43A O.S. 2011, Section 10-105, which relates to investigation of report; requiring joint investigations under certain circumstances; requiring interviews with certain persons; establishing requirements for certain investigators; establishing requirements for certain interviews; and providing an effective date.

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

SECTION 1. AMENDATORY 43A O.S. 2011, Section 10-105, is amended to read as follows:

Section 10-105. A. Upon receiving a report of alleged abuse, neglect, or exploitation of a vulnerable adult pursuant to the provisions of the Protective Services for Vulnerable Adults Act, the Department of Human Services shall make a prompt and thorough investigation. When feasible, law enforcement and the Department

1 shall conduct joint investigations in order to reduce potential
2 trauma to the victim and to eliminate duplicative efforts.

3 B. The investigation ~~by the Department~~ shall include:

4 1. Notification of local law enforcement agency. Upon the
5 request of a law enforcement agency, the Department shall submit
6 copies of any results or records of an examination on the vulnerable
7 adult who is alleged to have been abused, neglected, or exploited
8 and any other clinical notes, x-rays, photographs, or previous or
9 current records relevant to the case;

10 2. Any findings of abuse, neglect, or exploitation of a
11 vulnerable adult shall also be sent to any state agency with
12 concurrent jurisdiction over persons or issues identified in the
13 investigation including, but not limited to, where appropriate, the
14 State Department of Health, the Oklahoma Board of Nursing, or any
15 other appropriate state licensure or certification board, agency, or
16 registry;

17 3. Every reasonable effort to locate and notify the caretaker,
18 legal guardian and next of kin of the vulnerable adult who may be in
19 need of protective services pursuant to Section 10-105.1 of this
20 title;

21 4. Diagnostic evaluation to determine whether the person needs
22 protective services;

1 5. Any photographs necessary to document injuries or conditions
2 which have resulted or may result in an injury or serious harm to
3 the person;

4 6. A statement of the least restrictive services needed;

5 7. Whether services are available from the Department or in the
6 community and how the services can be provided;

7 8. Whether the person would be capable of obtaining services
8 for self and could bear the cost or would be eligible for services
9 from the Department;

10 9. Whether a caretaker or legal guardian would be willing to
11 provide services or would agree to their provision;

12 10. Whether the person desires the services;

13 11. A statement of any follow-up investigation or monitoring of
14 the services that may be needed; and

15 12. Other relevant information.

16 C. 1. a. ~~The Department's investigation~~ Investigations

17 conducted pursuant to this section shall include a
18 visit to the home or other place of residence of the
19 person who is the subject of the report, a private
20 interview with such person and any other potential
21 victims, and consultation with persons who have
22 knowledge of or may be witnesses to the circumstances.

23 b. Investigators shall be suitably trained in interview
24 techniques and shall utilize such techniques in

1 interviews with elderly and incapacitated adults and
2 individuals with intellectual disabilities.
3 Interviews shall be conducted at the appropriate
4 developmental age level of the victim. A reasonable
5 effort shall be made to conduct interviews of
6 vulnerable adult victims with an intellectual
7 disability or diminished capacity utilizing
8 appropriate personnel and following protocols and
9 procedures established for interviews with such
10 persons, including the use of forensic interview
11 techniques when appropriate.

12 c. If, in the course of an investigation of this nature,
13 the Department is denied entrance to the home or other
14 place of residence of a person believed to be a
15 vulnerable adult in need of protective services, or is
16 denied a private interview with the vulnerable adult,
17 the Department may petition the court for an order
18 allowing entry to the premises or private access to
19 the vulnerable adult. The court shall make a finding
20 of probable cause of the vulnerability of the adult
21 before issuing the order. If documentation, or access
22 to records, or other information relating to such
23 person as provided by this section is denied, the
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1 Department may petition the court for an order
2 allowing entry or access.

3 2. The petition shall state the name and address of the person
4 who is the subject of the report and shall allege specific facts
5 sufficient to show that the circumstances of the person are in need
6 of investigation.

7 3. If it is necessary to forcibly enter the premises, the
8 representative of the Department shall make the entry accompanied by
9 a peace officer.

10 4. The Department shall make all reasonable attempts to
11 interview the caretaker or other persons alleged to be involved in
12 the abuse, neglect or exploitation in order to enhance service
13 provision and to prevent additional incidents of abuse, neglect or
14 exploitation.

15 D. When a report is received pertaining to a vulnerable adult
16 who has a legal guardian, a copy of the investigative report of the
17 Department shall be filed with the court to which the guardian is
18 accountable.

19 E. 1. In the case of a final investigative report pertaining
20 to a vulnerable adult who is a resident of a nursing facility,
21 residential care facility, assisted living facility or continuum of
22 care facility and who is alleged to be a victim of abuse, verbal
23 abuse, neglect, or exploitation by an employee of such facility, the
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1 Department shall forward to the State Department of Health a copy of
2 the Department's final investigative report.

3 2. The Department of Human Services shall be deemed a party
4 pursuant to the Administrative Procedures Act for the investigative
5 reports filed by the Department with the State Department of Health
6 regarding vulnerable adults who are residents of nursing facilities,
7 residential care facilities, assisted living facilities or continuum
8 of care facilities.

9 a. Within thirty (30) days of receipt of the final
10 investigative report submitted by the Department of
11 Human Services pursuant to this section, the State
12 Department of Health shall provide the Department of
13 Human Services with a written summary of any action
14 taken as a result of the complaint including, but not
15 limited to, results of any inspections, enforcement
16 actions or actions which may be taken by the State
17 Department of Health.

18 b. Whenever the Department of Human Services believes
19 that the conditions giving rise to a complaint by the
20 Department alleging a serious threat to the health,
21 safety or welfare of a resident of a nursing facility,
22 residential care facility, assisted living facility or
23 continuum of care facility have not been adequately
24 addressed, the Department of Human Services may

1 request the State Department of Health to hold a
2 hearing on the complaint as provided by Section 309 of
3 Title 75 of the Oklahoma Statutes.

4 3. Nothing herein shall prevent the State Department of Health
5 from conducting any type of investigation or taking any appropriate
6 remedial or other action pursuant to the provisions of the Nursing
7 Home Care Act, the Residential Care Act and the Continuum of Care
8 and Assisted Living Act.

9 F. When a report is received pertaining to a vulnerable adult
10 residing in a facility other than the home of the vulnerable adult,
11 where persons are employed to provide care and those employees have
12 been named as persons responsible for the abuse, neglect or
13 exploitation, the Department shall forward its final findings,
14 including, but not limited to, any administrative appeal findings to
15 the owner or administrator of the facility to prevent further
16 incidents.

17 SECTION 2. This act shall become effective November 1, 2018.
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