

1                                   **SENATE FLOOR VERSION**

2                                   February 12, 2018

3                                   **AS AMENDED**

4                                   SENATE BILL NO. 993

5                                   By: Griffin

6                                   **[ vulnerable adults - investigation of report - joint**  
7                                   **investigations - interviews with certain persons -**  
8                                   **certain investigators - effective date ]**

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

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

13                                  Section 10-105.   A.   Upon receiving a report of alleged abuse,  
14                                  neglect, or exploitation of a vulnerable adult pursuant to the  
15                                  provisions of the Protective Services for Vulnerable Adults Act, the  
16                                  Department of Human Services shall make a prompt and thorough  
17                                  investigation.   When feasible, law enforcement and the Department  
18                                  shall conduct joint investigations in order to reduce potential  
19                                  trauma to the victim and to eliminate duplicative efforts.

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

21                                  1.   Notification of local law enforcement agency.   Upon the  
22                                  request of a law enforcement agency, the Department shall submit  
23                                  copies of any results or records of an examination on the vulnerable  
24                                  adult who is alleged to have been abused, neglected, or exploited

1 and any other clinical notes, x-rays, photographs, or previous or  
2 current records relevant to the case;

3 2. Any findings of abuse, neglect, or exploitation of a  
4 vulnerable adult shall also be sent to any state agency with  
5 concurrent jurisdiction over persons or issues identified in the  
6 investigation including, but not limited to, where appropriate, the  
7 State Department of Health, the Oklahoma Board of Nursing, or any  
8 other appropriate state licensure or certification board, agency, or  
9 registry;

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

14 4. Diagnostic evaluation to determine whether the person needs  
15 protective services;

16 5. Any photographs necessary to document injuries or conditions  
17 which have resulted or may result in an injury or serious harm to  
18 the person;

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

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

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

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

3        10. Whether the person desires the services;

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

6        12. Other relevant information.

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

8                conducted pursuant to this section shall include a  
9 visit to the home or other place of residence of the  
10 person who is the subject of the report, a private  
11 interview with such person and any other potential  
12 victims, and consultation with persons who have  
13 knowledge of or may be witnesses to the circumstances.

14            b. Investigators shall be suitably trained with  
15 demonstrated competency in evidence-informed forensic  
16 interviewing techniques utilizing protocols for  
17 elderly and incapacitated adults and individuals with  
18 intellectual disabilities. Interviews shall be  
19 conducted at the appropriate developmental age level  
20 of the victim. A reasonable effort shall be made to  
21 conduct interviews of vulnerable adult victims with an  
22 intellectual disability or diminished capacity  
23 utilizing appropriate personnel and following  
24

1                   protocols and procedures established for forensic  
2                   interviews.

3           c.     If, in the course of an investigation of this nature,  
4                   the Department is denied entrance to the home or other  
5                   place of residence of a person believed to be a  
6                   vulnerable adult in need of protective services, or is  
7                   denied a private interview with the vulnerable adult,  
8                   the Department may petition the court for an order  
9                   allowing entry to the premises or private access to  
10                  the vulnerable adult. The court shall make a finding  
11                  of probable cause of the vulnerability of the adult  
12                  before issuing the order. If documentation, or access  
13                  to records, or other information relating to such  
14                  person as provided by this section is denied, the  
15                  Department may petition the court for an order  
16                  allowing entry or access.

17           2. The petition shall state the name and address of the person  
18           who is the subject of the report and shall allege specific facts  
19           sufficient to show that the circumstances of the person are in need  
20           of investigation.

21           3. If it is necessary to forcibly enter the premises, the  
22           representative of the Department shall make the entry accompanied by  
23           a peace officer.

1       4. The Department shall make all reasonable attempts to  
2 interview the caretaker or other persons alleged to be involved in  
3 the abuse, neglect or exploitation in order to enhance service  
4 provision and to prevent additional incidents of abuse, neglect or  
5 exploitation.

6       D. When a report is received pertaining to a vulnerable adult  
7 who has a legal guardian, a copy of the investigative report of the  
8 Department shall be filed with the court to which the guardian is  
9 accountable.

10       E. 1. In the case of a final investigative report pertaining  
11 to a vulnerable adult who is a resident of a nursing facility,  
12 residential care facility, assisted living facility or continuum of  
13 care facility and who is alleged to be a victim of abuse, verbal  
14 abuse, neglect, or exploitation by an employee of such facility, the  
15 Department shall forward to the State Department of Health a copy of  
16 the Department's final investigative report.

17       2. The Department of Human Services shall be deemed a party  
18 pursuant to the Administrative Procedures Act for the investigative  
19 reports filed by the Department with the State Department of Health  
20 regarding vulnerable adults who are residents of nursing facilities,  
21 residential care facilities, assisted living facilities or continuum  
22 of care facilities.

23       a. Within thirty (30) days of receipt of the final  
24               investigative report submitted by the Department of

1 Human Services pursuant to this section, the State  
2 Department of Health shall provide the Department of  
3 Human Services with a written summary of any action  
4 taken as a result of the complaint including, but not  
5 limited to, results of any inspections, enforcement  
6 actions or actions which may be taken by the State  
7 Department of Health.

8 b. Whenever the Department of Human Services believes  
9 that the conditions giving rise to a complaint by the  
10 Department alleging a serious threat to the health,  
11 safety or welfare of a resident of a nursing facility,  
12 residential care facility, assisted living facility or  
13 continuum of care facility have not been adequately  
14 addressed, the Department of Human Services may  
15 request the State Department of Health to hold a  
16 hearing on the complaint as provided by Section 309 of  
17 Title 75 of the Oklahoma Statutes.

18 3. Nothing herein shall prevent the State Department of Health  
19 from conducting any type of investigation or taking any appropriate  
20 remedial or other action pursuant to the provisions of the Nursing  
21 Home Care Act, the Residential Care Act and the Continuum of Care  
22 and Assisted Living Act.

23 F. When a report is received pertaining to a vulnerable adult  
24 residing in a facility other than the home of the vulnerable adult,

1 where persons are employed to provide care and those employees have  
2 been named as persons responsible for the abuse, neglect or  
3 exploitation, the Department shall forward its final findings,  
4 including, but not limited to, any administrative appeal findings to  
5 the owner or administrator of the facility to prevent further  
6 incidents.

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

8 COMMITTEE REPORT BY: COMMITTEE ON HEALTH AND HUMAN SERVICES  
9 February 12, 2018 - DO PASS AS AMENDED  
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