

An Act

ENROLLED SENATE
BILL NO. 987

By: Weaver of the Senate

and

Bush of the House

An Act relating to child abuse or neglect; amending 10A O.S. 2011, Section 1-2-105, as last amended by Section 2, Chapter 342, O.S.L. 2017 (10A O.S. Supp. 2020, Section 1-2-105), which relates to investigations of child abuse or neglect; allowing for interview during investigation of child abuse or neglect; empowering the court to order child be transported for interview; and providing an effective date.

SUBJECT: Child abuse or neglect investigations

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

SECTION 1. AMENDATORY 10A O.S. 2011, Section 1-2-105, as last amended by Section 2, Chapter 342, O.S.L. 2017 (10A O.S. Supp. 2020, Section 1-2-105), is amended to read as follows:

Section 1-2-105. A. 1. Any county office of the Department of Human Services receiving a child abuse or neglect report shall promptly respond to the report by initiating an investigation of the report or an assessment of the family in accordance with priority guidelines established by the Department. The Department may prioritize reports of alleged child abuse or neglect based on the severity and immediacy of the alleged harm to the child. The Department shall adopt a priority system pursuant to rules promulgated by the Department. The primary purpose of the investigation or assessment shall be the protection of the child.

For investigations or assessments, the Department shall give special consideration to the risks of any minor, including a child with a disability, who is unable to communicate effectively about abuse, neglect or other safety threat or who is in a vulnerable position due to the inability to communicate effectively.

2. If an investigation or assessment conducted by the Department in response to any report of child abuse or neglect shows that the incident reported was the result of the reasonable exercise of parental discipline involving the use of ordinary force, including, but not limited to, spanking, switching, or paddling, the investigation or assessment will proceed no further and all records regarding the incident shall be expunged.

B. 1. The investigation or assessment shall include a visit to the home of the child, unless there is reason to believe that there is an extreme safety risk to the child or worker or it appears that the referral has been made in bad faith. The visit shall include an interview with and examination of the subject child and may be conducted at any reasonable time and at any place including, but not limited to, the child's school. The Department shall notify the person responsible for the health, safety, and welfare of the child that the child has been interviewed at a school. The investigation or assessment may include an interview with the parents of the child or any other person responsible for the health, safety, or welfare of the child and an interview with and examination of any child in the home.

2. The investigation or assessment may include a medical, psychological, or psychiatric examination of any child in the home, and may include an interview conducted by appropriate personnel using the protocols and procedures specified in Section 1-9-102 of this title. If admission to the home, school, or any place where the child may be located cannot be obtained, then the district court having jurisdiction, upon application by the district attorney and upon cause shown, shall order the person responsible for the health, safety, or welfare of the child, or the person in charge of any place where the child may be located, to allow entrance for the interview, the examination, and the investigation or assessment. The court may order that the child be transported to a location approved by the court for the interview or examination and designate an appropriate person or persons to transport the child. Such

persons may include but are not limited to: a relative of the child; a person responsible for the child's health, safety, or welfare; law enforcement personnel; employees of the Department of Human Services; or employees of the Office of Juvenile Affairs if the child is in the custody of the Office of Juvenile Affairs. When making this determination, the court shall consider safety protocols based on the gender of the child. If the person responsible for the health, safety, or welfare of the child does not consent to a medical, psychological, or psychiatric examination of the child that is requested by the Department, the district court having jurisdiction, upon application by the district attorney and upon cause shown, shall order the examination to be made at the times and places designated by the court.

3. The investigation or assessment may include an inquiry into the possibility that the child or a person responsible for the health, safety, or welfare of the child has a history of mental illness. If the person responsible for the child's health, safety, or welfare does not allow the Department to have access to behavioral health records or treatment plans requested by the Department, which may be relevant to the alleged abuse or neglect, the district court having jurisdiction, upon application by the district attorney and upon good cause shown, shall by order allow the Department to have access to the records pursuant to terms and conditions prescribed by the court.

4. a. If the court determines that the subject of the behavioral health records is indigent, the court shall appoint an attorney to represent that person at the hearing to obtain behavioral health records.
- b. A person responsible for the health, safety, or welfare of the child is entitled to notice and a hearing when the Department seeks a court order to allow a psychological or psychiatric examination or access to behavioral health records.
- c. Access to behavioral health records does not constitute a waiver of confidentiality.

5. The investigation of a report of sexual abuse or serious physical abuse or both sexual abuse and serious physical abuse shall

be conducted, when appropriate and possible, using a multidisciplinary team approach as provided by Section 1-9-102 of this title. Law enforcement and the Department shall exchange investigation information.

6. The investigation or assessment shall include an inquiry into whether the person responsible for the health, safety or welfare of the child is an active duty service member of the military or the spouse of an active duty service member. The Department shall collect and report information related to the military affiliation of the person or spouse responsible for the health, safety or welfare of the child to the designated federal authorities at the federal military installation where the service member is assigned as provided by paragraph 4 of subsection A of Section 1-2-102 of this title.

C. 1. Every physician, surgeon, or other health care provider making a report of abuse or neglect as required by this section or examining a child to determine the likelihood of abuse or neglect and every hospital or related institution in which the child was examined or treated shall provide copies of the results of the examination or copies of the examination on which the report was based and any other clinical notes, x-rays, photographs, and other previous or current records relevant to the case to law enforcement officers conducting a criminal investigation into the case and to employees of the Department conducting an assessment or investigation of alleged abuse or neglect in the case.

2. As necessary in the course of conducting an assessment or investigation, the Department may request and obtain, without a court order, copies of all prior medical records of a child including, but not limited to, hospital records, medical, and dental records. The physician-patient privilege shall not constitute grounds for failure to produce such records.

D. 1. The Department shall engage in a collaborative decision-making process to address each child's needs related to safety and whether the child's condition warrants a safety intervention including but not limited to a change in placement, and:

- a. those involved in the collaborative decision-making process shall include at a minimum appropriate

Department staff, the parents of the child and, if the parent requests, an advocate or representative,

- b. to protect the safety of those involved and to promote efficiency, the Department may limit participants as determined to be in the best interests of the child,
- c. the Department shall make reasonable efforts to provide a trained facilitator to guide the decision-making process, and
- d. any determination that a collaborative decision-making process is not possible or is unnecessary shall require supervisor approval and documentation of the reasons supporting the determination.

2. If, before the assessment or investigation is complete, the Department determines that immediate removal of the child is necessary to protect the child from further abuse or neglect, the Department shall recommend that the child be taken into custody and, if feasible, utilize the collaborative decision-making process provided by paragraph 1 of this subsection prior to the emergency custody hearing.

E. The Department shall make a complete written report of the investigation. The investigation report, together with its recommendations, shall be submitted to the appropriate district attorney's office. Reports of assessment recommendations shall be submitted to appropriate district attorneys.

F. The Department, where appropriate and in its discretion, shall identify prevention- and intervention-related services available in the community and refer the family to or arrange for such services when an investigation or assessment indicates the family would benefit from such services, or the Department may provide such services directly. The Department shall document in the record its attempts to provide, refer or arrange for the provision of voluntary services and shall determine within sixty (60) days whether the family has accessed those services directly related to safety of the child. If the family refuses voluntary services or does not access those services directly related to safety of the child, and it is determined by the Department that the

child's surroundings endanger the health, safety, or welfare of the child, the Department may recommend that the child be placed in protective or emergency custody or that a petition be filed.

G. If the Department has reason to believe that a person responsible for the health, safety, and welfare of the child may remove the child from the state before the investigation is completed, the Department may request the district attorney to file an application for a temporary restraining order in any district court in the State of Oklahoma without regard to continuing jurisdiction of the child. Upon cause shown, the court may enter a temporary restraining order prohibiting the parent or other person from removing the child from the state pending completion of the assessment or investigation.

H. The Director of the Department or designee may request an investigation be conducted by the Oklahoma State Bureau of Investigation or other law enforcement agency in cases where it reasonably believes that criminally injurious conduct including, but not limited to, physical or sexual abuse of a child has occurred.

I. Child Welfare Services, in collaboration with the Developmental Disabilities Services Division, shall implement a protocol to be used in cases where the subject child is a child with a disability who has complex medical needs, and the protocol shall include, but not be limited to: resource coordination, medical consultation or medical evaluation, when needed.

SECTION 2. This act shall become effective November 1, 2021.

Passed the Senate the 9th day of March, 2021.

Presiding Officer of the Senate

Passed the House of Representatives the 8th day of April, 2021.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____