

1 STATE OF OKLAHOMA

2 2nd Session of the 60th Legislature (2026)

3 COMMITTEE SUBSTITUTE

4 FOR

HOUSE BILL NO. 4421

By: Hilbert

5
6
7 COMMITTEE SUBSTITUTE

8 An Act relating to children; amending 10A O.S. 2021,
9 Section 1-2-102, as last amended by Section 2,
10 Chapter 26, O.S.L. 2025 (10A O.S. Supp. 2025, Section
11 1-2-102), which relates to abuse and neglect;
12 requiring that safety analysis be conducted within
13 certain amount of time in certain circumstances;
14 mandating drug screening for certain individuals;
15 providing when drug testing shall occur; directing
16 the Department of Human Services to make referral to
17 law enforcement agency in certain circumstances;
18 directing the Department to promulgate rules by
19 certain date; providing that the court may direct
20 certain individuals to pay for drug testing;
21 providing exception; creating the Child Welfare
22 Fentanyl Testing Revolving Fund; providing purpose;
23 mandating annual audit; directing the Department to
24 provide annual report; providing information report
shall contain; amending 21 O.S. 2021, Section 852.1,
as amended by Section 187, Chapter 486, O.S.L. 2025
(21 O.S. Supp. 2025, Section 852.1), which relates to
child endangerment; modifying what constitutes child
endangerment; providing definition; providing for
fines and penalties; providing for codification; and
providing an effective date.

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

1 SECTION 1. AMENDATORY 10A O.S. 2021, Section 1-2-102, as
2 last amended by Section 2, Chapter 26, O.S.L. 2025 (10A O.S. Supp.
3 2025, Section 1-2-102), is amended to read as follows:

4 Section 1-2-102. A. 1. Upon receipt of a report that a child
5 may be abused, neglected or drug-endangered, the Department of Human
6 Services shall conduct a safety analysis.

7 2. The Department may employ or contract with active or retired
8 social work, medical and law enforcement professionals who shall be
9 strategically placed throughout the state to:

10 a. provide investigation support and to assist
11 caseworkers with assessment decisions and intervention
12 activities,

13 b. serve as consultants to caseworkers in all aspects of
14 their duties, and

15 c. designate persons who shall act as liaisons within the
16 Department whose primary functions are to develop
17 relationships with local law enforcement agencies and
18 courts.

19 3. The Department shall forward a report of its assessment or
20 investigation and findings to any district attorney's office which
21 may have jurisdiction to file a petition pursuant to Section 1-4-101
22 of this title.

23 4. The Department shall determine the military status of
24 parents whose children are subject to abuse or neglect. If the

1 Department determines that a parent or guardian is currently serving
2 on active duty in the United States military, the Department shall
3 notify a United States Department of Defense family advocacy program
4 that there is an investigation into the parent or guardian. The
5 Department shall forward a report of its assessment or investigation
6 and findings to the appropriate military law enforcement entity.

7 5. Whenever the Department determines there is a child that
8 meets the definition of a "drug-endangered child", as defined in
9 Section 1-1-105 of this title, or a child has been diagnosed with
10 fetal alcohol syndrome and the referral is accepted for
11 investigation, the Department shall conduct an investigation of the
12 allegations and shall not limit the evaluation of the circumstances
13 to an assessment.

14 6. Whenever the Department determines an infant has been
15 diagnosed with Neonatal Abstinence Syndrome or a Fetal Alcohol
16 Spectrum Disorder, but the referral is not accepted for
17 investigation, the Department shall develop a plan of safe care that
18 addresses both the infant and affected family member or caregiver.
19 The plan of safe care shall address, at a minimum, the health and
20 substance use treatment needs of the infant and affected family
21 member or caregiver.

22 B. 1. Upon receipt of a report that a child may be drug-
23 endangered or whenever the Department determines there is a child
24

1 that meets the definition of a "drug-endangered child", as defined
2 in Section 1-1-105 of this title, the Department of Human Services:

3 a. shall initiate a safety analysis within twenty-four
4 (24) hours, and

5 b. shall attempt to acquire consent for an immediate drug
6 screening for any parent, guardian, or caregiver if
7 substance use is suspected or confirmed, including,
8 but not limited to, methamphetamine production or use,
9 opioid exposure, or any indication of fentanyl
10 presence, including indication via report,
11 observation, or prior history. If the parent,
12 guardian, or caregiver refuses to consent to a drug
13 screening and substance use is suspected or confirmed
14 following a safety analysis, the Department shall
15 notify a district attorney within twenty-four (24)
16 hours to request a court order compelling the parent,
17 guardian, or caregiver submit to a drug screening.
18 All drug screenings shall include mandatory fentanyl
19 testing.

20 2. Drug testing shall occur:

21 a. at intake for investigations and removals, pursuant to
22 subsection B of this section,

23 b. as part of ongoing monitoring in open cases, or upon
24 reasonable suspicion, and

1 c. prior to any reunification, visitation expansion, or
2 case closure.

3 3. If, upon receipt of a report alleging that a child is drug-
4 endangered, the Department determines that drug activity is
5 indicated or that the child meets the definition of a "drug-
6 endangered child", as defined in Section 1-1-105 of this title, the
7 Department shall immediately make a referral, either verbally or in
8 writing, to the appropriate local law enforcement agency for the
9 purpose of conducting a possible criminal investigation.

10 C. 1. If, upon receipt of a report alleging abuse or neglect
11 or during the assessment or investigation, the Department determines
12 that:

13 a. the alleged perpetrator is someone other than a person
14 responsible for the child's health, safety, or
15 welfare, and

16 b. the alleged abuse or neglect of the child does not
17 appear to be attributable to failure on the part of a
18 person responsible for the child's health, safety, or
19 welfare to provide protection for the child,

20 the Department shall immediately make a referral, in writing, to the
21 appropriate local law enforcement agency for the purpose of
22 conducting a possible criminal investigation. The Department shall
23 maintain a record of its transmission of each report to law
24 enforcement.

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

4 a. the Department has reason to believe the alleged
5 perpetrator is a parent of another child, not the
6 subject of the criminal investigation, or is otherwise
7 a person responsible for the health, safety, or
8 welfare of another child,

9 b. notice is received from a law enforcement agency that
10 it has determined the alleged perpetrator is a parent
11 of or a person responsible for the health, safety, or
12 welfare of another child not the subject of the
13 criminal investigation, or

14 c. the appropriate law enforcement agency requests the
15 Department to assist in the investigation. If funds
16 and personnel are available, as determined by the
17 Director of the Department or a designee, the
18 Department may assist law enforcement in interviewing
19 children alleged to be victims of physical or sexual
20 abuse.

21 3. If, upon receipt of a report alleging abuse or neglect or
22 during the assessment or investigation, the Department determines
23 that the alleged abuse or neglect of the child involves:
24

1 a. a child in the custody of the Office of Juvenile
2 Affairs, and

3 b. at the time of the alleged abuse or neglect, such
4 child was placed in a secure facility operated by the
5 Office of Juvenile Affairs, as defined by Section 2-1-
6 103 of this title,

7 the Department shall immediately make a referral, either verbally or
8 in writing, to the appropriate law enforcement agency for the
9 purpose of conducting a possible criminal investigation. After
10 making the referral to the law enforcement agency, the Department
11 shall not be responsible for further investigation.

12 ~~E.~~ D. 1. Any law enforcement agency receiving a referral as
13 provided in this section shall provide the Department with a copy of
14 the report of any investigation resulting from a referral from the
15 Department.

16 2. Whenever, in the course of any criminal investigation, a law
17 enforcement agency determines that there is cause to believe that a
18 child, other than a child in the custody of the Office of Juvenile
19 Affairs and placed in an Office of Juvenile Affairs secure juvenile
20 facility, may be abused or neglected by reason of the acts,
21 omissions, or failures on the part of a person responsible for the
22 health, safety, or welfare of the child, the law enforcement agency
23 shall immediately contact the Department for the purpose of an
24 investigation.

1 ~~D.~~ E. If, upon receipt of a report alleging abuse or neglect,
2 the Department determines that the family has been the subject of a
3 deprived petition, the Department shall conduct a thorough
4 investigation of the allegations and shall not limit the evaluation
5 of the circumstances to an assessment. In addition, if the family
6 has been the subject of three or more referrals, the Department
7 shall conduct a thorough investigation of the allegations and shall
8 not limit the evaluation of the circumstances to an assessment.

9 ~~E.~~ F. For the purposes of this section, "law enforcement" shall
10 include military law enforcement if the subject of an investigation
11 of abuse or neglect is currently serving in any branch of the United
12 States military.

13 ~~F.~~ G. The Department shall promulgate rules by November 1,
14 2026, to implement the provisions of this section.

15 SECTION 2. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 10A of Title 1-4-717, unless
17 there is created a duplication in numbering, reads as follows:

18 A. The district court judge may order the family, or a member
19 of the family, a guardian, or a caregiver who is subject to fentanyl
20 testing under this act to pay drug testing costs.

21 B. The Department of Human Services shall cover the cost when
22 the individual:

- 23 1. Is enrolled in a state or federal voucher program;
24 2. Receives qualifying public assistance; or

1 3. Demonstrates financial hardship via affidavit.

2 SECTION 3. NEW LAW A new section of law to be codified
3 in the Oklahoma Statutes as Section 10A of Title 1-4-718, unless
4 there is created a duplication in numbering, reads as follows:

5 A. There is hereby created in the State Treasury a revolving
6 fund for the Department of Human Services to be designated the
7 "Child Welfare Fentanyl Testing Revolving Fund". The fund shall be
8 a continuing fund, not subject to fiscal year limitations, and shall
9 consist of the fifty-dollar fee imposed pursuant to paragraph 2 of
10 subsection D of Section 4 of this act. All monies accruing to the
11 credit of said fund are hereby appropriated and may be budgeted and
12 expended by the Department of Human Services for the purpose of
13 offsetting the Department of Human Services' drug testing costs.
14 Expenditures from said fund shall be made upon warrants issued by
15 the State Treasurer against claims filed as prescribed by law with
16 the Director of the Office of Management and Enterprise Services for
17 approval and payment.

18 B. The Oklahoma State Auditor and Inspector shall audit the
19 fund annually.

20 C. The Department of Human Services shall submit an annual
21 report by December 31 to the Speaker of the Oklahoma House of
22 Representatives and the President Pro Tempore of the Oklahoma State
23 Senate that includes, but is not limited to, testing volumes, costs,
24

1 positives rates, and fund balance, including impacts on child safety
2 outcomes.

3 SECTION 4. AMENDATORY 21 O.S. 2021, Section 852.1, as
4 amended by Section 187, Chapter 486, O.S.L. 2025 (21 O.S. Supp.
5 2025, Section 852.1), is amended to read as follows:

6 Section 852.1. A. A person who is the parent, guardian, or
7 person having custody or control over a child as defined in Section
8 1-1-105 of Title 10A of the Oklahoma Statutes, commits child
9 endangerment when the person:

10 1. Knowingly permits physical or sexual abuse of a child;

11 2. Knowingly permits a child to be present at a location where
12 a controlled dangerous substance is being manufactured or attempted
13 to be manufactured as defined in Section 2-101 of Title 63 of the
14 Oklahoma Statutes;

15 3. Knowingly and willfully permits or causes a child under
16 eighteen (18) years of age to be placed in a situation where the
17 child's life, health, or safety is endangered, as defined in
18 subsection B of this section;

19 4. Knowingly permits a child to be present in a vehicle when
20 the person knows or should have known that the operator of the
21 vehicle is impaired by or is under the influence of alcohol or
22 another intoxicating substance; or

23 ~~4.~~ 5. Is the driver, operator, or person in physical control of
24 a vehicle in violation of Section 11-902 of Title 47 of the Oklahoma

1 Statutes while transporting or having in the vehicle such child or
2 children.

3 However, it is an affirmative defense to this paragraph if the
4 person had a reasonable apprehension that any action to stop the
5 physical or sexual abuse or deny permission for the child to be in
6 the vehicle with an intoxicated person would result in substantial
7 bodily harm to the person or the child.

8 Nothing in this subsection shall prohibit the prosecution of a
9 person pursuant to the provisions of Section 11-902 or 11-904 of
10 Title 47 of the Oklahoma Statutes.

11 B. "Endangerment" includes, but is not limited to, exposing a
12 child to fentanyl or fentanyl analogs through possession, use,
13 distribution, or environmental contamination in the home.

14 C. The provisions of this section shall not apply to any
15 parent, guardian or other person having custody or control of a
16 child for the sole reason that the parent, guardian or other person
17 in good faith selects and depends upon spiritual means or prayer for
18 the treatment or cure of disease or remedial care for such child.
19 This subsection shall in no way limit or modify the protections
20 afforded said child in Section 852 of this title or Section 1-4-904
21 of Title 10A of the Oklahoma Statutes.

22 ~~E.~~ D. 1. Any person convicted of violating any provision of
23 this section shall be guilty of a Class B6 felony offense punishable
24 by imprisonment in the custody of the Department of Corrections for

1 a term of not more than four (4) years, or by a fine not exceeding
2 Five Thousand Dollars (\$5,000.00), or by both such fine and
3 imprisonment.

4 2. If fentanyl was present or detected in the endangerment that
5 led to the conviction, the person convicted shall be guilty of a
6 felony punishable by imprisonment in the custody of the Department
7 of Corrections for a term of not more than five (5) years, or by a
8 fine not exceeding Five Thousand Dollars (\$5,000.00), or by both
9 such fine and imprisonment. Such person shall also pay a mandatory
10 fee of Fifty Dollars (\$50.00) to the State Treasury to be deposited
11 in the Child Welfare Fentanyl Testing Revolving Fund, pursuant to
12 Section 3 of this act.

13 SECTION 5. This act shall become effective November 1, 2026.

14

15 60-2-16498 JM 02/18/26

16

17

18

19

20

21

22

23

24