

# An Act

ENROLLED SENATE  
BILL NO. 949

By: Rosino of the Senate

and

Roe of the House

An Act relating to the Office of Client Advocacy; amending 10A O.S. 2021, Section 1-6-103, which relates to the Oklahoma Children's Code; authorizing the Office to inspect certain records; amending 10A O.S. 2021, Section 1-9-112, as amended by Section 4, Chapter 339, O.S.L. 2024 (10A O.S. Supp. 2024, Section 1-9-112), which relates to the Office of Client Advocacy; specifying certain duty of the Advocate General; amending 30 O.S. 2021, Section 1-122, which relates to guardian and ward; authorizing disclosure of certain information to the State Department of Health; amending 43A O.S. 2021, Section 10-103, which relates to definitions used in the Protective Services for Vulnerable Adults Act; adding and modifying definitions; amending 43A O.S. 2021, Section 10-104, as amended by Section 31, Chapter 475, O.S.L. 2019, which relates to reports of abuse, neglect, or exploitation; requiring certain referrals; amending 43A O.S. 2021, Sections 10-105, 10-105.1, 10-106, 10-108, 10-110, and 10-111, which relate to protective services for vulnerable adults; updating statutory language; clarifying applicability of provisions relating to investigations; directing the Office to establish certain system; amending 56 O.S. 2021, Section 1025.3, which relates to the community services worker registry; transferring certain duties to the Office of Client Advocacy; requiring the Office to promptly report investigative findings to the Department of Human Services; amending 63 O.S. 2021, Section 1-106, as amended by Section 1, Chapter 85, O.S.L. 2022 (63 O.S. Supp. 2024, Section 1-106), which relates to the State Commissioner of Health; broadening certain power and

duty; updating statutory language; updating statutory references; and declaring an emergency.

SUBJECT: Office of Client Advocacy

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

SECTION 1. AMENDATORY 10A O.S. 2021, Section 1-6-103, is amended to read as follows:

Section 1-6-103. A. Juvenile court records and Department of Human Services agency records pertaining to a child may be inspected, and their contents shall be disclosed, without a court order to the following persons upon showing of proper credentials and pursuant to their lawful duties:

1. The court having the child currently before it in any proceeding pursuant to this title, any district court or tribal court to which such proceedings may be transferred, employees and officers of the court in the performance of their duties, including but not limited to guardians ad litem appointed by the court, and court-appointed special advocates;

2. A district attorney, United States Attorney, or Attorney General of this or another state and the employees of such offices in the course of their official duties pursuant to this title or the prosecution of crimes against children, or upon their request in their official capacity as advisor in a grand jury proceeding;

3. The attorney representing a child who is the subject of a proceeding pursuant to the provisions of this title or other proceeding where child custody or visitation is at issue;

4. Employees of juvenile bureaus in the course of their official duties pursuant to this title, and employees of the Department of Human Services in the course of their official duties;

5. Employees of a law enforcement agency of this or another state or military enclave and employees of a child protective service of another state or military enclave in the course of their

official duties pertaining to investigations of a report of known or suspected child abuse or neglect or crimes against children or for the purpose of determining whether to place a child in protective custody;

6. The Oklahoma Commission on Children and Youth as provided by Sections 601.2 and 601.6 of Title 10 of the Oklahoma Statutes;

7. The Office of Juvenile Affairs;

8. A federally recognized Indian tribe in which the child who is the subject of the record is a member or is eligible to become a member of the tribe and is the biological child of a member of an Indian tribe pursuant to the provisions of the Federal Indian Child Welfare Act and the Oklahoma Indian Child Welfare Act; provided such Indian tribe, in the course of its official duties, is:

- a. investigating a report of known or suspected child abuse or neglect or crimes against children or for the purpose of determining whether to place a child in protective custody,
- b. providing services to or for the benefit of a child including, but not limited to, protective, emergency, social and medical services, or
- c. the tribe, the tribal court or the tribal child welfare program has asserted jurisdiction or intervened in any case in which the child is the subject of the proceedings or is a party to the proceedings pursuant to the authority provided in the Oklahoma Indian Child Welfare Act.

The records that are to be provided to Indian tribes under this subsection shall include all case records, reports, and documents as defined in Section 1-6-101 of this title;

9. The Governor or to any person the Governor designates, in writing;

10. Any federal official of the United States Department of Health and Human Services;

11. Any member of the Legislature approved in writing by the Speaker of the House of Representatives or the President Pro Tempore of the Senate;

12. A foster parent, with regard to records concerning the social, medical, psychological, or educational needs of a child currently placed with that foster parent or of a child being considered for placement with that foster parent;

13. An employee of any state or federal corrections or law enforcement agency in the performance of the official duties of the employee concerning presentence investigations or supervision of a parent of an alleged or adjudicated deprived child, or the legal guardian, custodian, or any other adult member of the child's home who is responsible for the health, safety, or welfare of the child;

14. An employee of a state agency of this or another state in the performance of the official duties of the employee concerning the establishment of paternity or the establishment or enforcement of a child support order or other entitlement for the benefit of a child; provided, disclosure shall be limited to information directly related to the purpose of such disclosure;

15. Any member of a city-county Health Department Fetal Infant Mortality Review (FIMR) in the performance of the official duties of the member concerning investigations of fetal and infant mortalities; provided, disclosure shall be limited to information directly related to the purpose of such disclosure;

16. Any designated federal authorities at the federal military installation where a service member is assigned, when the child is a member of an active duty military family, as provided by paragraph 4 of subsection A of Section 1-2-102 of this title; ~~and~~

17. Any member of the Child Welfare Review Committee for the Death and Near Death of Children With Disabilities as established by Section 1-10-103 of this title; and

18. The Office of Client Advocacy within the State Department of Health.

B. In addition to the persons listed in subsection A of this section, juvenile court records may be inspected, and their contents shall be disclosed, without a court order to the following persons upon showing of proper credentials and pursuant to their lawful duties:

1. Employees of court-appointed special advocate programs, as defined in Section 1-1-105 of this title, in the course of their official duties pertaining to recruiting, screening, training, assigning cases, supervising, and supporting volunteers in their roles as guardian ad litem pursuant to Section 1-4-306 of this title;

2. Members of postadjudication review boards established pursuant to the provisions of Section 1116.2 of Title 10 of the Oklahoma Statutes, the Child Death Review Board, and multidisciplinary personnel. In addition to juvenile court records, members of such postadjudication review boards may inspect, without a court order, information that includes, but is not limited to:

- a. psychological and medical records,
- b. placement history and information, including the names and addresses of foster parents,
- c. family assessments,
- d. treatment or service plans, and
- e. school records;

3. The Department of Human Services or other public or private agency or individual having court-ordered custody or physical custody pursuant to Department placement of the child, or conducting a child abuse or neglect investigation of the child who is the subject of the record. In addition to juvenile court records, employees of the Department may inspect, without a court order and upon a showing of proper credentials and pursuant to their lawful duties, information that includes, but is not limited to:

- a. psychological and medical records, and

b. nondirectory education records;

4. The child who is the subject of the record and the parents, legal guardian, custodian, or foster parent of such child; and

5. A person authorized by the court to conduct bona fide research, provided such research may not publish the names or identities of parents, children, or other persons contained in the records.

C. In addition to the persons and entities named in subsection A of this section, Department of Human Services agency records may be inspected, and their contents shall be disclosed, without a court order to the following persons upon showing of proper credentials and pursuant to their lawful duties:

1. Postadjudicatory review boards, court-appointed special advocates, and members of the Child Death Review Board;

2. Any district court which has ordered a home study by the Department in an action for divorce, annulment, custody of a child, or appointment of a legal guardian of a child, or any subsequent proceeding in such actions; provided, however, the Department may limit disclosure in the home study to summaries or to information directly related to the purpose of the disclosure;

3. Members of multidisciplinary teams or multidisciplinary personnel designated by the Department, investigating a report of known or suspected child abuse or neglect or providing services to a child or family which is the subject of the report;

4. A physician who has before him or her a child whom the physician reasonably suspects may be abused or neglected or any health care or mental health professionals involved in the evaluation or treatment of the child or the parents, legal guardian, foster parent, custodian, or other family members of the child;

5. Any public or private agency or person authorized by the Department to diagnose, or provide care, treatment, supervision, or other services to a child who is the subject of a report or record of child abuse or neglect; provided, the Department may limit such

disclosure to summaries or to information directly necessary for the purpose of such disclosure;

6. Any person or agency for research purposes, if all of the following conditions are met:

- a. the person or agency conducting the research is employed by the State of Oklahoma or is under contract with this state and is authorized by the Department to conduct the research, and
- b. the person or agency conducting the research ensures that all documents containing identifying information are maintained in secure locations and access to the documents by unauthorized persons is prohibited; that no identifying information is included in documents generated from the research conducted; and that all identifying information is deleted from documents used in the research when the research is completed;

7. The Oklahoma Health Care Authority; and

8. A medical examiner when such person is determining the cause of death of a child.

D. In accordance with the rules promulgated for such purpose pursuant to Section 620.6 of Title 10 of the Oklahoma Statutes, records listed in subsection A of Section 1-6-102 of this title may be inspected and their contents disclosed without a court order to participating agencies.

E. The court may disclose to an employee of an out-of-state entity, licensed to perform adoption home studies in that state, whether the prospective adoptive parent has had parental rights to a child terminated in Oklahoma or whether the prospective adoptive parent has relinquished parental rights to a child in Oklahoma.

F. Nothing in this section shall be construed as prohibiting the Department from disclosing such confidential information as may be necessary to secure appropriate care, treatment, protection or supervision of a child alleged to be abused or neglected.

SECTION 2. AMENDATORY 10A O.S. 2021, Section 1-9-112, as amended by Section 4, Chapter 339, O.S.L. 2024 (10A O.S. Supp. 2024, Section 1-9-112), is amended to read as follows:

Section 1-9-112. A. 1. The State Commissioner of Health shall establish the Office of Client Advocacy within the State Department of Health and shall employ personnel necessary to carry out the provisions of this section.

2. The head of the Office of Client Advocacy shall be the Advocate General. The duties and responsibilities of the Advocate General are to:

- a. supervise personnel assigned to the Office of Client Advocacy,
- b. monitor and review grievance procedures and hearings,
- c. establish and maintain a fair, simple, and expeditious system for resolution of grievances of:
  - (1) all children in the custody of the Department of Human Services regarding:
    - (a) the substance or application of any written or unwritten policy or rule of the Department or agent of the Department, or
    - (b) any decision or action by an employee or agent of the Department, or of any child in the custody of the Department,
  - (2) foster parents relating to the provision of foster care services pursuant to this section and Section 1-9-117 of this title, and
  - (3) all persons receiving services from the Developmental Disabilities Services Division of the Department of Human Services,
- d. investigate allegations of abuse, neglect, sexual abuse, and sexual exploitation, as those terms are

defined in the Oklahoma Children's Code, by a person responsible for a child, regardless of custody:

- (1) residing outside his or her own home other than children in foster care or children in the custody of the Office of Juvenile Affairs and placed in an Office of Juvenile Affairs secure facility,
  - (2) in a day treatment program as defined in Section 175.20 of Title 10 of the Oklahoma Statutes, and submit a report of the results of the investigation to the appropriate district attorney and to the State Department of Health,
  - (3) receiving services from a community services worker as that term is defined in Section 1025.1 of Title 56 of the Oklahoma Statutes, and
  - (4) residing in a state institution listed in Section 1406 of Title 10 of the Oklahoma Statutes,
- e. establish a system for investigating allegations of misconduct, by a person responsible for a child, not rising to the level of abuse, neglect, sexual abuse, or sexual exploitation with regard to any child or resident listed in subparagraph d of this paragraph,
- f. coordinate any hearings or meetings of departmental administrative review committees conducted as a result of unresolved grievances or as a result of investigations,
- g. make recommendations to the State Commissioner of Health, who shall then make recommendations to the Director of Human Services, and provide regular or special reports regarding grievance procedures, hearings and investigations to the Director, the Commissioner, the Office of Juvenile System Oversight, and other appropriate persons as necessary,

- h. forward to the Office of Juvenile System Oversight, for the information of the Director of that office, a copy of the final report of any grievance which is not resolved in the favor of the complainant,
- i. perform the duties imposed on the Office of Client Advocacy under the Protective Services for Vulnerable Adults Act when the Office is the appropriate state entity as defined in Section 10-103 of Title 43A of the Oklahoma Statutes,
- j. perform such other duties as required by the State Commissioner of Health, and
- ~~j.~~ k. develop policies and procedures as necessary to implement the duties and responsibilities assigned to the Office of Client Advocacy.

B. The Office of Client Advocacy shall make a complete written report of its investigations. The investigation report, together with its recommendations, shall be submitted to the appropriate district attorney's office.

C. 1. Except as otherwise provided by the Oklahoma Children's Code, the reports required by Section 1-2-101 of this title or any other information acquired pursuant to the Oklahoma Children's Code shall be confidential and may be disclosed only as provided in Section 1-2-108 of this title and the Oklahoma Children's Code.

2. Except as otherwise provided by the Oklahoma Children's Code, any violation of the confidentiality requirements of the Oklahoma Children's Code shall, upon conviction, be a misdemeanor punishable by up to six (6) months in jail, by a fine of Five Hundred Dollars (\$500.00), or by both such fine and imprisonment.

3. Any records or information disclosed as provided by this subsection shall remain confidential. The use of any information shall be limited to the purpose for which disclosure is authorized. Rules promulgated by the State Commissioner of Health shall provide for disclosure of relevant information concerning Office of Client Advocacy investigations to persons or entities acting in an official capacity with regard to the subject of the investigation.

4. Nothing in this section shall be construed as prohibiting the Office of Client Advocacy or the Department of Human Services from disclosing such confidential information as may be necessary to secure appropriate care, treatment, or protection of a child alleged to be abused or neglected.

D. 1. The Office of Client Advocacy shall investigate any complaint received by the Office of Juvenile System Oversight alleging that an employee of the Department of Human Services or a child-placing agency has threatened a foster parent with removal of a child from the foster parent, harassed a foster parent, or refused to place a child in a licensed or certified foster home, or disrupted a child placement as retaliation or discrimination towards a foster parent who has:

- a. filed a grievance pursuant to Section 1-9-120 of this title,
- b. provided information to any state official or Department of Human Services employee, or
- c. testified, assisted, or otherwise participated in an investigation, proceeding, or hearing against the Department of Human Services or child-placing agency.

2. The provisions of this subsection shall not apply to any complaint by a foster parent regarding the result of a criminal, administrative, or civil proceeding for a violation of any law, rule, or contract provision by that foster parent, or the action taken by the Department of Human Services or a child-placement agency in conformity with the result of any such proceeding.

3. The Office of Client Advocacy shall at all times be granted access to any foster home or any child-placing agency which is certified, authorized, or funded by the Department of Human Services.

SECTION 3. AMENDATORY 30 O.S. 2021, Section 1-122, is amended to read as follows:

Section 1-122. A. Confidential information filed with or submitted to the court in conjunction with any proceeding pursuant to the Oklahoma Guardianship and Conservatorship Act, shall not constitute a public record and shall be sealed by the court. Access to confidential information shall be strictly controlled. Except upon court order, no confidential information shall be disclosed to persons other than:

1. The subject of the proceeding and the subject's attorney;
2. The guardian ad litem;
3. If the subject of the confidential information is a ward, the guardian or conservator of such ward;
4. If the subject of the confidential information is the guardian or conservator, the ward and the subject's attorney, and the attorney of such guardian or conservator;
5. Abstractors licensed pursuant to the Oklahoma Abstractors Law, for the purpose of having access to records regarding minors and determinations of persons as incapacitated or partially incapacitated persons pursuant to the Oklahoma Guardianship Act. Abstractors shall maintain the confidentiality of this data, except for such parts as are relevant to the land title being researched;
6. An authorized representative of the United States Department of Veterans Affairs upon presentation of proper identification; ~~and~~
7. An authorized representative of the Department of Human Services upon presentation of proper identification; and
8. An authorized representative of the State Department of Health including, but not limited to, an authorized representative of the Office of Client Advocacy, upon presentation of proper identification.

B. The fact of the existence of a guardianship or conservatorship of a person or that person's estate shall not be considered confidential information.

SECTION 4. AMENDATORY 43A O.S. 2021, Section 10-103, is amended to read as follows:

Section 10-103. A. When used in the Protective Services for Vulnerable Adults Act:

1. "Protective services" means services which are necessary to aid a vulnerable adult in meeting the essential requirements for mental or physical health and safety that the vulnerable adult is unable to provide or obtain without assistance. The term "protective services" includes but is not limited to services provided to or obtained for such person in order to prevent or remedy the abuse, neglect, or exploitation of such person;

2. "Services which are necessary to aid an individual to meet essential requirements for mental or physical health and safety" include, but shall not be limited to:

- a. the identification of vulnerable adults in need of the services,
- b. the provision of medical care for physical and mental health needs,
- c. the provision of social services assistance in personal hygiene, food, clothing, and adequately heated and ventilated shelter,
- d. protection from health and safety hazards,
- e. protection from physical mistreatment,
- f. guardianship referral,
- g. outreach programs, and
- h. the transportation necessary to secure any of such services.

The term shall not include taking the person into physical custody without the consent of the person except as provided for in Sections

10-107 and 10-108 of this title, and the evaluation, monitoring, and provision of protective placements;

3. "Meet essential requirements for mental or physical health and safety" means those actions necessary to provide the health care, food, shelter, clothing, personal hygiene and other care without which physical injury or illness to the vulnerable adult is likely to occur;

4. "Incapacitated person" means:

a. any person eighteen (18) years of age or older:

- (1) who is impaired by reason of mental or physical illness or disability, dementia or related disease, developmental or intellectual disability or other cause, and
- (2) whose ability to receive and evaluate information effectively or to make and to communicate responsible decisions is impaired to such an extent that such person lacks the capacity to manage his or her financial resources or to meet essential requirements for his or her mental or physical health or safety without assistance from others, or

b. a person for whom a guardian, limited guardian, or conservator has been appointed pursuant to the Oklahoma Guardianship and Conservatorship Act;

5. "Vulnerable adult" means an individual who is an incapacitated person or who, because of physical or mental disability, including persons with Alzheimer's disease or other dementias, incapacity, or other disability, is substantially impaired in the ability to provide adequately for the care or custody of himself or herself, or is unable to manage his or her property and financial affairs effectively, or to meet essential requirements for mental or physical health or safety, or to protect himself or herself from abuse, verbal abuse, neglect, or exploitation without assistance from others;

6. "Caretaker" means a person who has:

- a. the responsibility for the care of a vulnerable adult or the financial management of the resources of a vulnerable adult as a result of a family relationship,
- b. assumed the responsibility for the care of a vulnerable adult voluntarily, by contract, or as a result of the ties of friendship, or
- c. been appointed a guardian, limited guardian, or conservator pursuant to the Oklahoma Guardianship and Conservatorship Act;

7. "Department" means, unless the context clearly indicates otherwise, the Department of Human Services;

8. "Abuse" means causing or permitting:

- a. the infliction of physical pain, injury, sexual abuse, sexual exploitation, unreasonable restraint or confinement, mental anguish or personal degradation, or
- b. the deprivation of nutrition, clothing, shelter, health care, or other care or services without which serious physical or mental injury is likely to occur to a vulnerable adult by a caretaker or other person providing services to a vulnerable adult;

9. "Exploitation" or "exploit" means an unjust or improper use of the resources of a vulnerable adult for the profit or advantage, pecuniary or otherwise, of a person other than the vulnerable adult through the use of undue influence, coercion, harassment, duress, deception, false representation or false pretense;

10. "Financial neglect" means repeated instances by a caretaker, or other person, who has assumed the role of financial management, of failure to use the resources available to restore or maintain the health and physical well-being of a vulnerable adult, including, but not limited to:

- a. squandering or negligently mismanaging the money, property, or accounts of a vulnerable adult,
- b. refusing to pay for necessities or utilities in a timely manner, or
- c. providing substandard care to a vulnerable adult despite the availability of adequate financial resources;

11. "Neglect" means:

- a. the failure to provide protection for a vulnerable adult who is unable to protect his or her own interest,
- b. the failure to provide a vulnerable adult with adequate shelter, nutrition, health care, or clothing, or
- c. negligent acts or omissions that result in harm or the unreasonable risk of harm to a vulnerable adult through the action, inaction, or lack of supervision by a caretaker providing direct services;

12. "Personal degradation" means a willful act by a caretaker intended to shame, degrade, humiliate or otherwise harm the personal dignity of a vulnerable adult, or where the caretaker knew or reasonably should have known the act would cause shame, degradation, humiliation or harm to the personal dignity of a reasonable person. Personal degradation includes the taking, transmitting, or display of an electronic image of a vulnerable adult by a caretaker, where the caretaker's actions constitute a willful act intended to shame, degrade, humiliate or otherwise harm the personal dignity of the dependent adult, or where the caretaker knew or reasonably should have known the act would cause shame, degradation, humiliation or harm to the personal dignity of a reasonable person. Personal degradation does not include:

- a. the taking, transmission or display of an electronic image of a vulnerable adult for the purpose of reporting vulnerable adult abuse to law enforcement,

the Department of Human Services or other regulatory agency that oversees caretakers or enforces abuse or neglect laws or rules,

- b. the taking, transmission or display of an electronic image of a vulnerable adult for the purpose of treatment or diagnosis, or
- c. the taking, transmission or display of an electronic image of a vulnerable adult as part of an ongoing investigation;

13. "Sexual abuse" means:

- a. oral, anal, or vaginal penetration of a vulnerable adult by or through the union with the sexual organ of a caretaker or other person providing services to the vulnerable adult, or the anal or vaginal penetration of a vulnerable adult by a caretaker or other person providing services to the vulnerable adult with any other object, ~~or~~
- b. for the purpose of sexual gratification, the touching, feeling or observation of the body or private parts of a vulnerable adult by a caretaker or other person providing services to the vulnerable adult, or
- c. indecent exposure by a caretaker or other person providing services to the vulnerable adult;

14. "Indecent exposure" means forcing or requiring a vulnerable adult to:

- a. look upon the body or private parts of another person or upon sexual acts performed in the presence of the vulnerable adult, or
- b. touch or feel the body or private parts of another;

15. "Self-neglect" means the action or inaction of a vulnerable adult which causes that person to fail to meet the essential

requirements for physical or mental health and safety due to the vulnerable adult's lack of awareness, incompetence or incapacity;

16. "Sexual exploitation" includes, but is not limited to, a caretaker's causing, allowing, permitting or encouraging a vulnerable adult to engage in prostitution or in the lewd, obscene, or pornographic photographing, filming or depiction of the vulnerable adult as those acts are defined by state law; ~~and~~

17. "Verbal abuse" means the use of words, sounds, or other communication including, but not limited to, gestures, actions or behaviors, by a caretaker or other person providing services to a vulnerable adult that are likely to cause a reasonable person to experience humiliation, intimidation, fear, shame or degradation; and

18. "Appropriate state entity" means:

a. the Office of Client Advocacy within the State Department of Health, if the allegation concerns a vulnerable adult who is:

(1) a certified member of the plaintiff class in Homeward Bound, Inc., et al. v. The Hisson Memorial Center, et al., Case Number 85-C-437-E, United States District Court for the Northern District of Oklahoma,

(2) a resident of the Robert M. Greer Center or successor facility, or

(3) receiving services from a community services provider, community services worker, Medicaid personal care services provider, or Medicaid personal care assistant, as those terms are defined in Section 1025.1 of Title 56 of the Oklahoma Statutes, when such provider or worker is the alleged perpetrator, or

b. the Department of Human Services, if the allegation concerns a vulnerable adult who does not meet the description of subparagraph a of this paragraph.

B. Nothing in this section shall be construed to mean a vulnerable adult is abused or neglected for the sole reason the vulnerable adult, in good faith, selects and depends upon spiritual means alone through prayer, in accordance with the practices of a recognized religious method of healing, for the treatment or cure of disease or remedial care, or a caretaker or other person responsible, in good faith, is furnishing such vulnerable adult spiritual means alone through prayer, in accordance with the tenets and practices of a recognized church or religious denomination, for the treatment or cure of disease or remedial care in accordance with the practices of or express consent of the vulnerable adult.

SECTION 5. AMENDATORY 43A O.S. 2021, Section 10-104, as amended by Section 31, Chapter 475, O.S.L. 2019, is amended to read as follows:

Section 10-104. A. Any person having reasonable cause to believe that a vulnerable adult is suffering from abuse, neglect, or exploitation shall make a report as soon as the person is aware of the situation to:

1. The Department of Human Services; ~~or~~

2. The Office of Client Advocacy within the State Department of Health; or

3. The municipal police department or sheriff's office in the county in which the suspected abuse, neglect, or exploitation occurred.

B. Persons required to make reports pursuant to this section shall include, but not be limited to:

1. Physicians;

2. Operators of emergency response vehicles and other medical professionals;

3. Social workers and mental health professionals;

4. Law enforcement officials;

5. Staff of domestic violence programs;

6. Long-term care facility personnel, including staff of nursing facilities, intermediate care facilities for individuals with intellectual disabilities (ICFs/IID), assisted living facilities, and residential care facilities;

7. Other health care professionals;

8. Persons entering into transactions with a caretaker or other person who has assumed the role of financial management for a vulnerable adult;

9. Staff of residential care facilities, group homes, or employment settings for individuals with intellectual disabilities;

10. Job coaches, community service workers, and personal care assistants; and

11. Municipal employees.

C. 1. If the report is not made in writing in the first instance, as soon as possible after it is initially made by telephone or otherwise, the report shall be reduced to writing by the Department of Human Services, in accordance with rules promulgated by the Director of Human Services, by the Office of Client Advocacy in accordance with rules promulgated by the State Commissioner of Health, or by the local municipal police or sheriff's department, whichever entity received the initial report. The report shall contain the following information:

- a. the name and address of the vulnerable adult,
- b. the name and address of the caretaker, guardian, or person having power of attorney over the vulnerable adult's resources if any,
- c. a description of the current location of the vulnerable adult,

- d. a description of the current condition of the vulnerable adult, and
- e. a description of the situation which may constitute abuse, neglect or exploitation of the vulnerable adult.

2. If federal law specifically prohibits the disclosure of any of the information required by this subsection, that information may be excluded from the report.

D. 1. If the initial report is made to the local municipal police department or sheriff's office, such police department or sheriff's office shall notify, as soon as possible, the Department of Human Services and the Office of Client Advocacy of its investigation.

2. If, at any point after the initial report, the Department of Human Services or the Office of Client Advocacy discovers that it is not the appropriate state entity for the investigation as defined in Section 10-103 of this title, it shall refer the matter to and share the initial report with the appropriate state entity.

E. Any person who knowingly and willfully fails to promptly report any abuse, neglect, or exploitation as required by the provisions of subsection A of this section, upon conviction, shall be guilty of a misdemeanor punishable by imprisonment in the county jail for a term not exceeding one (1) year or by a fine of not more than One Thousand Dollars (\$1,000.00), or by both such fine and imprisonment.

F. 1. Any person participating in good faith and exercising due care in the making of a report pursuant to the provisions of this section shall have immunity from any civil or criminal liability that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from the report.

2. The same immunity from any civil or criminal liability shall also be extended to previous employers of a person employed to be responsible for the care of a vulnerable adult, who in good faith report to new employers or prospective employers of such caretaker

any misconduct of the caretaker including, but not limited to, abuse, neglect or exploitation of a vulnerable adult, whether confirmed or not.

G. Any person who willfully or recklessly makes a false report shall be civilly liable for any actual damages suffered by the person being reported and for any punitive damages set by the court or jury which may be allowed in the discretion of the court or jury.

H. 1. Every physician or other health care professional making a report concerning the abuse, neglect or exploitation of a vulnerable adult, as required by this section, or examining a vulnerable adult to determine the likelihood of abuse, neglect or exploitation, and every hospital in which a vulnerable adult is examined or treated for abuse, neglect or exploitation shall disclose necessary health information related to the case and provide, upon request by either the Department of Human Services, the Office of Client Advocacy, or the local municipal police or sheriff's department receiving the initial report, copies of the results or the records of the examination on which the report was based, and any other clinical notes, x-rays or photographs and other health information which is related to the case if:

- a. the vulnerable adult agrees to the disclosure of the health information, or
- b. the individual is unable to agree to the disclosure of health information because of incapacity~~+~~+ and
  - (1) the requesting party represents that the health information for which disclosure is sought is not intended to be used against the vulnerable adult in a criminal prosecution but to provide protective services pursuant to the Protective Services for Vulnerable Adults Act,
  - (2) the disclosure of the information is necessary to conduct an investigation into the alleged abuse, neglect or exploitation of the vulnerable adult subject to the investigation, and

(3) immediate enforcement activity that depends upon the disclosure:

- (a) is necessary to protect the health, safety and welfare of the vulnerable adult because of incapacity, or
- (b) would be materially and adversely affected by waiting until the vulnerable adult is able to agree to the disclosure.

2. If federal law specifically prohibits the disclosure of any of the information required by this subsection, that information may be excluded from the disclosed health information.

I. After investigating the report, either the county office of the ~~Department of Human Services~~ appropriate state entity or the municipal police department or sheriff's office, as appropriate, shall forward its findings to the office of the district attorney in the county in which the suspected abuse, neglect, or exploitation occurred. Unsubstantiated findings shall be labeled as such before transmission to the office of the district attorney. Findings of self-neglect shall not be forwarded to the office of the district attorney unless similar findings were reported within six (6) months prior.

J. Any state or county medical examiner or physician who has reasonable cause to suspect that the death of any vulnerable adult may be the result of abuse or neglect as defined by Section 10-103 of this title shall make a report to the district attorney or other law enforcement official of the county in which the death occurred. The report shall include the name of the person making the report, the name of the deceased person, the facts or other evidence supporting such suspicion, and any other health information that may be of assistance to the district attorney in conducting an investigation into the matter.

K. No employer shall terminate the employment, prevent or impair the practice or occupation of or impose any other sanction on any employee solely for the reason that the employee made or caused to be made a report or cooperated with an investigation pursuant to the Protective Services for Vulnerable Adults Act. A court, in

addition to other damages and remedies, may assess reasonable attorney fees against an employer who has been found to have violated the provisions of this subsection.

SECTION 6. AMENDATORY 43A O.S. 2021, 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~~ appropriate state entity shall make a prompt and thorough investigation. When feasible, law enforcement and the ~~Department~~ appropriate state entity shall conduct joint investigations in order to reduce potential trauma to the victim and to eliminate duplicative efforts.

B. The investigation shall include:

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

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

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

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

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

6. A statement of the least restrictive services needed;

7. Whether services are available from the Department of Human Services or in the community and how the services can be provided;

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

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

10. Whether the person desires the services;

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

12. Other relevant information.

C. 1. a. Investigations conducted pursuant to this section shall include a visit to the home or other place of residence of the person who is the subject of the report, a private interview with such person and any other potential victims, and consultation with persons who have knowledge of or may be witnesses to the circumstances.

b. Investigators shall be suitably trained in interview techniques and shall utilize such techniques in interviews with elderly and incapacitated adults and individuals with intellectual disabilities. Interviews shall be conducted at the appropriate developmental age level of the victim. A reasonable effort shall be made to conduct interviews of vulnerable adult victims with an intellectual disability or diminished capacity utilizing appropriate personnel and following protocols and procedures established for interviews with such

persons, including the use of forensic interview techniques when appropriate.

- c. If, in the course of an investigation of this nature, the ~~Department~~ appropriate state entity is denied entrance to the home or other place of residence of a person believed to be a vulnerable adult in need of protective services, or is denied a private interview with the vulnerable adult, the ~~Department~~ appropriate state entity may petition the court for an order allowing entry to the premises or private access to the vulnerable adult. The court shall make a finding of probable cause of the vulnerability of the adult before issuing the order. If documentation, or access to records, or other information relating to such person as provided by this section is denied, the ~~Department~~ appropriate state entity may petition the court for an order allowing entry or access.

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

3. If it is necessary to forcibly enter the premises, the representative of the ~~Department~~ appropriate state entity shall make the entry accompanied by a peace officer.

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

D. When a report is received pertaining to a vulnerable adult who has a legal guardian, a copy of the investigative report of the ~~Department~~ appropriate state entity shall be filed with the court to which the guardian is accountable.

E. 1. In the case of a final investigative report pertaining to a vulnerable adult who is a resident of a nursing facility, residential care facility, assisted living facility or continuum of

care facility and who is alleged to be a victim of abuse, verbal abuse, neglect, or exploitation by an employee of such facility, the ~~Department~~ appropriate state entity, if other than the Office of Client Advocacy, shall forward to the State Department of Health a copy of the ~~Department's~~ final investigative report.

2. The ~~Department of Human Services~~ appropriate state entity shall be deemed a party pursuant to the Administrative Procedures Act for the investigative reports filed by ~~the Department~~ such entity with the State Department of Health regarding vulnerable adults who are residents of nursing facilities, residential care facilities, assisted living facilities or continuum of care facilities.

- a. Within thirty (30) days of receipt of the final investigative report submitted by the ~~Department of Human Services~~ appropriate state entity pursuant to this section, the State Department of Health shall provide the ~~Department of Human Services~~ appropriate state entity with a written summary of any action taken as a result of the complaint including, but not limited to, results of any inspections, enforcement actions or actions which may be taken by the State Department of Health.
- b. Whenever the ~~Department of Human Services~~ appropriate state entity believes that the conditions giving rise to a complaint by ~~the Department~~ such entity alleging a serious threat to the health, safety or welfare of a resident of a nursing facility, residential care facility, assisted living facility or continuum of care facility have not been adequately addressed, ~~the Department of Human Services~~ such entity may request the State Department of Health to hold a hearing on the complaint as provided by Section 309 of Title 75 of the Oklahoma Statutes.

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

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

G. The Office of Client Advocacy shall establish a system for investigating allegations of misconduct by a person responsible for a vulnerable adult not rising to the level of abuse, neglect, or exploitation in cases where the Office is the appropriate state entity as defined in Section 10-103 of this title.

SECTION 7. AMENDATORY 43A O.S. 2021, Section 10-105.1, is amended to read as follows:

Section 10-105.1. A. As soon as possible after initiating an investigation of a referral regarding a vulnerable adult, the ~~Department~~ appropriate state entity shall provide to the caretaker of the alleged victim, the legal guardian, and next of kin of the vulnerable adult notification including a brief oral summary and easily understood written description of the investigation process, whether or not the caretaker, guardian or next of kin is alleged to be the perpetrator of the abuse, neglect or exploitation of the vulnerable adult.

B. If the vulnerable adult retains capacity to consent to voluntary services, and does not wish for a caretaker or next of kin to receive notification of the investigation, the ~~Department~~ appropriate state entity shall abide by wishes of the vulnerable adult.

C. The notification specified by subsection A of this section shall include:

1. A statement that the investigation is being undertaken by the ~~Department of Human Services~~ appropriate state entity pursuant to the requirements of the Protective Services for Vulnerable Adults Act in response to a report of abuse, neglect or exploitation and

shall include the name and office telephone number of the ~~Department~~ appropriate state entity's representative with primary responsibility for the investigation;

2. A statement that the identity of the person who reported the incident of abuse is confidential and may not even be known to the Department since the report could have been made anonymously;

3. A statement that the investigation is required by law to be conducted in order to enable the ~~Department of Human Services~~ appropriate state entity to identify incidents of abuse, neglect or exploitation in order to provide protective or preventive social services to vulnerable adults who are in need of such services;

4. An explanation of the procedures of the ~~Department of Human Services~~ appropriate state entity for conducting an investigation of alleged abuse, neglect or exploitation, including:

- a. a statement that the alleged victim of abuse, neglect or exploitation is the ~~Department's~~ appropriate state entity's primary client in such an investigation,
- b. a statement that findings of all investigations are provided to the office of the district attorney, and
- c. a statement that law enforcement may conduct a separate investigation to determine whether a criminal violation occurred;

5. An explanation of services which may be provided as a result of the ~~Department's~~ appropriate state entity's investigation, including:

- a. a statement that the caretaker, legal guardian and next of kin will be involved in the process of developing a plan of services for the vulnerable adult insofar as that involvement is consistent with the best interests of the vulnerable adult,
- b. a statement that voluntary services may be provided or arranged for based on the adult client's needs, desires and acceptance, and

- c. a statement that involuntary services may be provided through the judicial system when immediate services are needed to preserve the life of the vulnerable adult and physical health or preserve the resources of the vulnerable adult which may later be needed to provide care for the vulnerable adult;

6. A statement that, upon completion of the investigation, the identified caretaker, legal guardian and next of kin will receive a letter from the ~~Department~~ appropriate state entity which will inform such caretaker, legal guardian and next of kin:

- a. that the Department has found insufficient evidence of abuse, neglect or exploitation,
- b. that there appears to be probable cause to suspect the existence of abuse, neglect or exploitation in the judgment of the Department, and
- c. the recommendations of the ~~Department~~ appropriate state entity concerning the vulnerable adult;

7. The procedures concerning the process the caretaker, legal guardian and next of kin may use to acquire access to the vulnerable adult in the event the vulnerable adult is removed from the residence of the vulnerable adult and the circumstances under which access may be obtained;

8. The procedures to follow if there is a complaint regarding the actions of the ~~Department~~ appropriate state entity and the procedures to request a review of the findings made by the ~~Department~~ appropriate state entity during or at the conclusion of the investigation;

9. Information specifying that if the caretaker, legal guardian and next of kin of the vulnerable adult have any questions as to their legal rights, that such persons have a right to seek legal counsel;

10. References to the statutory and regulatory provisions governing abuse, neglect or exploitation and how the caretaker,

legal guardian and next of kin may obtain copies of those provisions; and

11. An explanation that the caretaker, legal guardian and next of kin may review specific information gathered during the investigation and pertaining to the service needs of the vulnerable adult subject to the requirements and exceptions provided in Section 10-110 of this title.

SECTION 8. AMENDATORY 43A O.S. 2021, Section 10-106, is amended to read as follows:

Section 10-106. A. If the Department of Human Services determines, as a result of its investigation or an investigation by the Office of Client Advocacy within the State Department of Health, that a vulnerable adult needs protective services, the Department of Human Services shall immediately provide or arrange for the provision of available protective services in the least restrictive manner, provided the person affirmatively consents to receive these services.

B. 1. When a caretaker of a vulnerable adult who consents to the receipt of protective services refuses to allow the provision of such services to the person, the Department may petition to the court for a decree enjoining the caretaker from interfering with the provision of protective services to the person.

2. The complaint must allege specific facts sufficient to show that the person is a vulnerable adult in need of protective services, consents to the receipt of protective services, and that the caretaker refuses to allow the provision of such services.

3. If the court finds that the person is a vulnerable adult in need of protective services, consents to the receipt of protective services, and that the caretaker refuses to allow the provision of such services, the court may enter a decree:

- a. enjoining the caretaker from interfering with the provision of protective services to the vulnerable adult, and

- b. freezing the assets of the vulnerable adult if it has been determined by preponderance of the evidence that the vulnerable adult is being exploited and it is necessary to protect such assets.

C. If a vulnerable adult does not consent to the receipt of protective services or withdraws consent to the receipt of such services, the services shall be terminated, unless the Department determines that the person lacks capacity to consent, in which case the Department may seek court authorization to provide services pursuant to Section 10-108 of this title.

D. 1. Payment for the costs of providing protective services shall be made from either:

- a. the assets of the vulnerable adult consenting to the receipt of voluntary protective services, or
- b. any available private or public assistance programs for which the vulnerable adult is eligible.

2. If no assets or other private or public funds are available to the person, payment shall be made from a fund established by the Department for the purpose of providing emergency adult protective services, subject to availability of funds.

SECTION 9. AMENDATORY 43A O.S. 2021, Section 10-108, is amended to read as follows:

Section 10-108. A. 1. If the Department of Human Services determines, as a result of its investigation or an investigation by the Office of Client Advocacy within the State Department of Health, that a vulnerable adult is suffering from abuse, neglect, self-neglect, or financial neglect or exploitation presenting a substantial risk of death or immediate and serious physical harm to the person or financial exploitation of the estate of the person, and the vulnerable adult lacks mental capacity to consent to receive protective services and no consent can be obtained, the Department of Human Services may petition the district court in the county specified by paragraph 3 of this subsection for an order:

- a. authorizing involuntary protective services and appointing a temporary guardian of the person and/or the estate,
- b. freezing the assets of the vulnerable adult, if the vulnerable adult is being exploited, establishing any new accounts necessary to pay the daily living expenses of the vulnerable adult, and directing a full accounting and investigation of the person alleged to be improperly managing the estate of the vulnerable adult,
- c. suspending or revoking the powers of an attorney-in-fact granted by a durable power of attorney, or revoking an irrevocable trust, or terminating a guardianship or conservatorship established pursuant to the Oklahoma Guardianship and Conservatorship Act, or
- d. directing any law enforcement agency to transport any incapacitated person or vulnerable adult as necessary for appropriate care, treatment and residential placement. If such transportation is ordered, reimbursement for expenses incurred from the transportation of a vulnerable adult under the Department's temporary guardianship shall be paid as provided for in Section 10-107 of this title.

2. Under no circumstances shall the court authorize the Department, pursuant to this subsection, to consent or deny consent to a Do-Not-Resuscitate order or the withdrawal of hydration or nutrition or other life-sustaining treatment although the court retains jurisdiction to hear such matters under applicable law.

3. The district court which may be petitioned by the Department for an order pursuant to paragraph 1 of this subsection is:

- a. the district court in the county in which the vulnerable adult resides,
- b. the district court in the county in which the vulnerable adult is receiving inpatient services, or

- c. the district court in the county where the vulnerable adult is located when any delay caused by taking the petition to the district court in the county of the residence of the vulnerable adult would result in greater substantial risk of death or greater serious physical harm to the vulnerable adult. The petition shall include an explanation of why the petition was filed in the district court in the county specified by this subparagraph rather than in the district court as specified in subparagraph a or b of this paragraph.

B. The petition shall be sworn to and include the name, age, and address of the vulnerable adult who the Department has determined is in need of emergency protective services, the nature of the abuse, neglect, or exploitation, the services needed, and information relating to the capacity of the person to consent to services and a description of the attempts of the Department to obtain consent and the name of the person or organization proposed to be appointed as temporary guardian.

C. 1. The vulnerable adult shall receive an opportunity for a hearing upon the petition, and shall be personally served with a copy of the petition and a notice scheduling hearing at least forty-eight (48) hours prior to any such hearing if the petition seeks temporary guardianship of thirty (30) days or more.

- 2. a. The hearing shall be set by the court on an expedited basis, but no later than five (5) calendar days, not including weekends or holidays when the court is closed, from the date the notice scheduling hearing is signed by the judge. The vulnerable adult shall have a right to a closed hearing unless such vulnerable adult requests otherwise.

- b. Unless the vulnerable adult objects or the person requiring notification pursuant to this subparagraph is alleged to have abused, neglected or exploited the vulnerable adult, the following persons shall be notified of any hearing held pursuant to this subsection:

- (1) the legal guardian, guardian ad litem and caretaker of the vulnerable adult,
- (2) any person so requested by the vulnerable adult to be present at the hearing, and
- (3) persons required to be notified pursuant to Section 3-110 of Title 30 of the Oklahoma Statutes.

D. 1. Upon sworn testimony of a representative of the Department, or statement of a district attorney representing the Department, that immediate and reasonably foreseeable death or serious physical harm to or financial exploitation of the vulnerable adult will result, the court may waive prior notice and issue a seventy-two-hour temporary guardianship and provide involuntary protective services whether or not during regular courthouse business hours. However, within twenty-four (24) hours of issuance of the seventy-two-hour order, the vulnerable adult and the attorney of the vulnerable adult, if known, shall be personally served with written notice scheduling a hearing within seventy-two (72) hours.

2. If a hearing on the seventy-two-hour order is declined, or upon conclusion of any such hearing, the court may terminate the temporary guardianship and involuntary services or enter a temporary guardianship for up to thirty (30) additional calendar days as provided for in subsection G of this section.

E. 1. The vulnerable adult has a right to be present and represented by counsel at any hearing authorized by this section. If the vulnerable adult is indigent or, in the determination of the court, lacks capacity to waive the right to counsel, the court shall immediately appoint counsel who shall personally meet with the vulnerable adult and attempt to discuss the petition or any pending motion prior to any hearing.

2. If the vulnerable adult is not in attendance at a scheduled hearing, the court shall make a special finding as to why the vulnerable adult is unable to attend, and, upon the request of the vulnerable adult or the attorney of the vulnerable adult, may continue the hearing to allow the vulnerable adult to attend.

3. If the vulnerable adult is indigent, the cost of representation by counsel shall be borne by court funds.

4. If the vulnerable adult is not indigent, the court may order costs of representation paid from the estate in the same manner as currently paid under the Oklahoma Guardianship and Conservatorship Act.

F. 1. After a hearing on the petition, the court may:

- a. appoint a temporary guardian and order involuntary protective services including, but not limited to, authorization for medical and/or psychological treatment and evaluations, and residential placement subject to the provisions of subsection G of this section,
- b. issue an order freezing all assets of the vulnerable adult, establish any new accounts necessary to pay the daily living expenses of the vulnerable adult, and order a full accounting and investigation of the person alleged to be improperly managing the vulnerable adult's estate,
- c. suspend or revoke powers of attorney or terminate a guardianship or conservatorship upon a finding that the attorney-in-fact, guardian or conservator failed to act appropriately on behalf of the vulnerable adult, or
- d. order any law enforcement agency to transport any incapacitated person or vulnerable adult as necessary for appropriate care, treatment and residential placement. If such transportation is ordered, reimbursement for expenses incurred from the transportation of a vulnerable adult under the Department's temporary guardianship shall be paid as provided for in Section 10-107 of this title.

2. a. Except as otherwise provided by subparagraphs b and c of this paragraph, the court appointing a temporary guardian and ordering involuntary protective services

shall not have authority to order the sale of the real property of the vulnerable adult.

- b. If the Department of Human Services has been appointed temporary guardian and the court issues an order for the Department to continue as the temporary guardian of the vulnerable adult beyond the one hundred eighty (180) calendar days authorized by this section because there is no one willing and able to act as guardian for the vulnerable adult, the Department, as temporary guardian may, after one (1) year from its initial appointment, sell the real property of a vulnerable adult pursuant to the provisions of the Oklahoma Guardianship and Conservatorship Act.
- c. The Department, as temporary guardian of a vulnerable adult, may also sell the real property of the vulnerable adult pursuant to the provisions of the Oklahoma Guardianship and Conservatorship Act prior to the one-year requirement specified in subparagraph b of this paragraph, if not selling the real property would jeopardize the vulnerable adult's eligibility for Medicaid. The fact that the vulnerable adult would be in jeopardy for receipt of Medicaid if the property was not sold shall be stated upon the court order directing the sale of the real property of the vulnerable adult.
- d. The court may issue an order authorizing the Department to sell personal property of a vulnerable adult when additional resources are required to pay for necessary care for the vulnerable adult pursuant to state law.

G. Whenever the court issues an order for involuntary protective services, the court shall adhere to the following limitations:

1. Only such protective services as are necessary to remove the conditions creating the emergency shall be ordered, and the court shall specifically designate the approved services in the order of the court. When the conditions creating the emergency have been

removed, the court shall dismiss the temporary guardianship ordered pursuant to this section;

2. The scope of service provided by the Department shall be limited to protective services or the establishment of eligibility for protective services for the person and estate. The Department shall request dismissal of the temporary guardianship ordered pursuant to this section when:

- a. an appropriate level of care for the vulnerable adult as determined by the Department has been established,
- b. assets have been secured, if applicable, and
- c. a representative payee or trustee has been set for financial management, if applicable;

3. Protective services authorized by an involuntary protective services order shall not include a change of residence unless the court specifically finds such action is necessary to remove the conditions creating the emergency and gives specific approval for such action in the order of the court. Emergency placement may be made to such facilities as nursing homes, hospital rehabilitation centers, assisted living centers, foster care and in-home placements, or to other appropriate facilities for emergency care or evaluation to determine the extent of a vulnerable adult's physical, mental and functional limitations; provided, however, emergency placement shall not be made or construed as an alternative to emergency detention and protective custody as authorized under Section 5-206 et seq. of this title or made or construed as an alternative to involuntary commitment under Section 5-410 et seq. of this title when a vulnerable adult otherwise meets the criteria for involuntary commitment. Services to such vulnerable adults shall be provided in a manner that is appropriate for the adult's age and condition and, except for facilities operated by the Department of Mental Health and Substance Abuse Services or community-based structured crisis centers under contract with the Department pursuant to Section 3-317 of this title, services provided to vulnerable adults pursuant to this section shall be provided in a setting that is segregated from any patients or residents of a facility who have been determined to be a danger to others; and

4. Involuntary protective services may be provided for a period not to exceed thirty (30) calendar days except as provided by subsections L and M of this section.

H. The court shall appoint the Department or an interested person or organization as temporary guardian of the person with responsibility for the welfare of such person and authority to give consent on behalf of the person for the approved involuntary protective services until the expiration of the order.

I. The issuance of an order for involuntary protective services and the appointment of a temporary guardian shall not deprive the vulnerable adult of any rights except to the extent validly provided for in the order or appointment.

J. 1. To enforce an order for involuntary protective services, the court may authorize:

- a. forcible entry of the premises of the vulnerable adult to be protected for the purpose of rendering protective services but only after a reasonable showing to the court that good faith attempts to gain voluntary access to the premises have failed and forcible entry is necessary,
- b. the transporting of the vulnerable adult to another location for the provision of involuntary services, and
- c. the eviction of persons who are in a position to exploit the vulnerable adult from any property owned, leased, or rented by the vulnerable adult and restriction of those persons' further access to any property of the vulnerable adult.

2. If forcible entry is authorized by the court, the order shall include a directive that the Department's representative be accompanied by a police officer or deputy sheriff in the county where the vulnerable adult or property of the vulnerable adult is located, and the police officer or deputy sheriff shall make the forcible entry.

K. The vulnerable adult, the temporary guardian, or any interested person may petition the court to have the order to provide involuntary protective services set aside or modified at any time.

L. If the vulnerable adult continues to need involuntary protective services after expiration of the thirty-day temporary guardianship provided in subsection G of this section, the temporary guardian shall immediately file a verified motion requesting the court to, except as otherwise provided by subsection F of this section, continue the temporary guardianship and involuntary protective services under this section for a period not to exceed one hundred eighty (180) calendar days.

M. 1. Service of the verified motion shall be made in conformity with subsection C of this section.

2. Upon filing such motion, the court shall order that a physical, mental, and social evaluation of the vulnerable adult be conducted by the Department and that a proposed plan of care be submitted to the court within thirty (30) calendar days thereafter reflecting the evaluation findings and recommended services.

3. Upon filing such motion, the prior temporary guardianship shall remain in full force and effect pending a review hearing after the thirty-day evaluation period. The caretaker, guardian or next-of-kin of the vulnerable adult may request that the evaluation period be shortened for good cause.

4. The evaluation shall include at least the following information:

- a. the address of the place where the person is residing and the person or agency which is providing care, treatment, or services at present,
- b. a summary of the professional treatment and services provided to the person by the Department or agency, if any, in connection with the problem creating the need for emergency protective services, and

- c. a medical and social evaluation including, but not limited to, the Department's assessment of the person's capacity to consent to services, a psychological or psychiatric evaluation and review if the mental state of the person is in question, and any recommendations for or against maintenance of partial legal rights. The evaluation and review shall include recommendations for placement based upon the best interests of the vulnerable adult taking into consideration the following:
- (1) the least restrictive environment,
  - (2) the desires of the vulnerable adult and legal guardian,
  - (3) the desires of the caretaker of the vulnerable adult and of any of the persons specified in Section 3-110 of Title 30 of the Oklahoma Statutes,
  - (4) the physical and mental health needs of the vulnerable adult,
  - (5) the available programs and services, and
  - (6) the health, well-being and welfare of the vulnerable adult and the public.

During the hearing to consider the motion to continue the temporary guardianship of the vulnerable adult for up to one hundred eighty (180) calendar days, the court shall consider the Department's findings and proposed plan of care and any other evidence presented by the caretaker, guardian or other interested persons. The court shall either terminate the temporary guardianship and all involuntary services or continue the temporary guardianship and specify any necessary services to be provided by the Department for a period not to exceed one hundred eighty (180) calendar days. Provided, the court may continue the guardianship of the Department, if there is no one willing and able to act as guardian for the vulnerable adult.

N. Neither the Department nor any of its employees or any other petitioner shall be liable for filing a petition pursuant to the Protective Services for Vulnerable Adults Act if the petition was filed in good faith.

SECTION 10. AMENDATORY 43A O.S. 2021, Section 10-110, is amended to read as follows:

Section 10-110. A. The reports, records, and working papers used or developed in an investigation of the circumstances of a vulnerable adult pursuant to the provisions of the Protective Services for Vulnerable Adults Act are confidential and may be disclosed only pursuant to rules promulgated by the ~~Commission for Director of Human Services~~ or the State Commissioner of Health, by order of the court, or as otherwise provided by this section or Section 10-110.1 of this title.

B. ~~Department of Human Services agency~~ Agency records of the Department of Human Services or the Office of Client Advocacy within the State Department of Health pertaining to a vulnerable adult may be inspected and their contents disclosed without a court order to the following persons upon showing of proper credentials and pursuant to their lawful duties:

1. A district attorney and the employees of an office of a district attorney in the course of their official duties pursuant to this title or the prosecution of crimes against vulnerable adults;

2. The attorney representing a vulnerable adult who is the subject of a proceeding pursuant to the provisions of the Protective Services for Vulnerable Adults Act;

3. Employees of a law enforcement agency of this or another state and employees of protective services for vulnerable adults of another state;

4. A physician who has before him or her a vulnerable adult whom the physician reasonably suspects may have been abused or neglected or any health care or mental health professional involved in the evaluation or treatment of the vulnerable adult;

5. A caretaker, legal guardian, custodian or other family members of the vulnerable adult; provided, the Department appropriate state entity may limit such disclosures to summaries or to information directly necessary for the purpose of such disclosure;

6. Any public or private agency or person authorized by the Department to diagnose, provide care and treatment to a vulnerable adult who is the subject of a report or record of vulnerable adult abuse or neglect;

7. Any public or private agency or person authorized by the Department to supervise or provide other services to a vulnerable adult who is the subject of a report or record of vulnerable adult abuse or neglect; provided, the Department may limit such disclosure to summaries or to information directly necessary for the purpose of such disclosure; and

8. Any person or agency for research purposes, if all of the following conditions are met:

- a. the person or agency conducting such research is employed by the State of Oklahoma or is under contract with this state and is authorized by the Department Director of Human Services and the State Commissioner of Health to conduct such research, and
- b. the person or agency conducting the research ensures that all documents containing identifying information are maintained in secure locations and access to such documents by unauthorized persons is prohibited; that no identifying information is included in documents generated from the research conducted; and that all identifying information is deleted from documents used in the research when the research is completed.

C. Nothing in this section shall be construed as prohibiting the Department appropriate state entity from disclosing such confidential information as may be necessary to secure appropriate care, treatment or protection of a vulnerable adult alleged to be abused or neglected.

D. Records and their contents disclosed pursuant to this section shall remain confidential. The use of such information shall be limited to the purposes for which disclosure is authorized. It shall be unlawful and a misdemeanor for any person to furnish any record or disclose any information contained therein for any unauthorized purpose.

E. Records of investigations conducted pursuant to the Protective Services for Vulnerable Adults Act shall not be expunged except by court order.

1. If the Department is currently or was previously appointed as temporary guardian of the alleged victim of abuse, neglect, financial exploitation, or financial neglect, any petition or motion requesting expungement of the investigative records of the Department shall be filed under the same case number.

2. Written notice of the hearing and a copy of any such petition or motion shall be properly and timely served upon:

- a. the alleged victim of abuse, neglect, financial exploitation, or financial neglect,
- b. the Department's Office of General Counsel and any other counsel of record in a proceeding in which the Department was appointed as temporary guardian, and
- c. all other persons due notice in a guardianship proceeding involving the victim pursuant to Section 3-110 of Title 30 of the Oklahoma Statutes.

SECTION 11. AMENDATORY 43A O.S. 2021, Section 10-111, is amended to read as follows:

Section 10-111. A. 1. The district courts are vested with jurisdiction to issue orders and enforce orders restricting visitation, by the custodian or by any other person specified by the court, of a vulnerable adult who is receiving or has been determined to need protective services pursuant to the Protective Services for Vulnerable Adults Act.

2. Whenever it is consistent with the welfare and safety of a vulnerable adult, the court shall restrict the visitation of a custodian or other person specified by the court who is alleged or has been determined to have abused, neglected or exploited the vulnerable adult.

3. Notice as ordered by the court shall be given to the custodian or other person alleged or determined to have abused, neglected or exploited a vulnerable adult.

B. If the Department of Human Services determines, as a result of its investigation or an investigation by the Office of Client Advocacy within the State Department of Health, that a vulnerable adult needs voluntary or involuntary protective services as a result of abuse, neglect or exploitation by the caretaker or by any other person, the Department of Human Services may petition the district court to restrict the visitation of such custodian or other person with the vulnerable adult.

C. 1. Consistent with the welfare and safety of the vulnerable adult, the court may require supervised visitation, prohibit visitation or otherwise limit the visitation by the custodian or such other person with the vulnerable adult.

2. The basis for restricting visitation shall be stated in the record by the court.

D. The owner, operator or any facility personnel of a nursing home, residential home, assisted living facility or other long-term care facility having reason to believe that visitation of a vulnerable adult should be restricted may notify the ~~long-term care ombudsman program or adult protective services~~ Office of the State Long-Term Care Ombudsman within the Office of the Attorney General or the appropriate state entity. Any other person having reason to believe that visitation of a vulnerable adult should be restricted may notify the ~~Department of Human Services~~ appropriate state entity pursuant to the Protective Services for Vulnerable Adults Act.

SECTION 12. AMENDATORY 56 O.S. 2021, Section 1025.3, is amended to read as follows:

Section 1025.3. A. The Director of ~~the Department of~~ Human Services shall promulgate rules to establish and maintain a community services worker registry. Such rules may include, but need not be limited to:

1. A procedure for notation in such registry of a final ~~Department of Human Services~~ investigative finding by the Office of Client Advocacy within the State Department of Health or a finding by an Administrative Law Judge of maltreatment of an individual by a community services worker or a Medicaid personal care assistant;

2. A procedure for notice and due process for a community services worker, or a Medicaid personal care assistant, or applicant before the entering of such person's name in the registry as having a final ~~Department of Human Services~~ Office of Client Advocacy investigative finding or Administrative Law Judge finding of maltreatment of an individual;

3. Disclosure requirements for information in the registry; and

4. Procedures for granting a waiver of the provisions of paragraph 1 of subsection ~~F~~ G of Section 1025.2 of this title by the Director of Human Services.

B. The community services worker registry shall include, but not be limited to, the following information on each community services worker and each Medicaid personal care assistant:

1. The individual's full name;

2. Information necessary to identify each individual;

3. The date the individual's name was placed in the registry;  
and

4. Information on any final ~~Department of Human Services~~ Office of Client Advocacy investigative finding or Administrative Law Judge finding of maltreatment concerning the worker.

C. The Office of Client Advocacy shall promptly report final investigative findings to the Department of Human Services for the purposes of the community services worker registry.

D. A community services worker, a Medicaid personal care assistant, or applicant who is adversely affected by an Administrative Law Judge finding of maltreatment of an individual may seek judicial review pursuant to Article II of the Administrative Procedures Act. The finding of the Administrative Law Judge may be appealed to the district court of the county in which the community services worker, Medicaid personal care assistant, or applicant resides within thirty (30) days of the date of the decision. A copy of the petition shall be served by mail upon the general counsel of the Department of Human Services.

~~D.~~ E. An investigation conducted under Section 1025.1 et seq. of this title shall include a process for notifying a community services provider of areas of concern and administrative information. An area of concern or administrative information shall not be considered final investigative findings, nor shall the area of concern or administrative information be included in a final investigative report of the ~~Department of Human Services~~ Office of Client Advocacy. The ~~Department~~ Office shall develop a procedure by which a community services provider may request an investigative status update within ten (10) calendar days of the initiation of an investigation conducted under Section 1025.1 et seq. of this title.

SECTION 13. AMENDATORY 63 O.S. 2021, Section 1-106, as amended by Section 1, Chapter 85, O.S.L. 2022 (63 O.S. Supp. 2024, Section 1-106), is amended to read as follows:

Section 1-106. A. The State Commissioner of Health shall serve at the pleasure of the Governor, and shall have skill and experience in public health duties and sanitary sciences and shall meet at least one of the following qualifications:

1. Possession of a Doctor of Medicine Degree and a license to practice medicine in this state;

2. Possession of an Osteopathic Medicine Degree and a license to practice medicine in this state;

3. Possession of a Doctoral degree in Public Health or Public Health Administration; or

4. Possession of a Master of Science Degree and a minimum of five (5) years of supervisory experience in the administration of health services.

B. The Commissioner shall be exempt from all qualifications enumerated in subsection A of this section if the Commissioner possesses at least a master's degree and has experience in management of state agencies or large projects.

C. The Commissioner shall have the following powers and duties, unless otherwise directed by the Governor:

1. Have general supervision of the health of the citizens of the state; make investigations, inquiries and studies concerning the causes of disease and injury, and especially of epidemics, and the causes of mortality, and the effects of localities, employment, conditions and circumstances on the public health; investigate conditions as to health, sanitation and safety of schools, prisons, public institutions, mines, public conveyances, camps, places of group abode, and all buildings and places of public resort, and recommend, prescribe and enforce such measures of health, sanitation and safety for them as the Commissioner deems advisable; take such measures as deemed necessary by the Commissioner to control or suppress, or to prevent the occurrence or spread of, any communicable, contagious or infectious disease, and provide for the segregation and isolation of persons having or suspected of having any such disease; designate places of quarantine or isolation; advise state and local governments on matters pertaining to health, sanitation and safety; and abate any nuisance affecting injuriously the health of the public or any community. Any health information or data acquired by the Commissioner from any public agency, which information or data is otherwise confidential by state or federal law, shall remain confidential notwithstanding the acquisition of this information by the Commissioner-;

2. Be the executive officer and supervise the activities of the State Department of Health, and act for the Department in all matters except as may be otherwise provided in this Code; administer oaths at any hearing or investigation conducted pursuant to this Code; and enforce rules and standards adopted by the Commissioner. All rules adopted by the Commissioner are subject to the terms and conditions of the Administrative Procedures Act-;

3. Appoint an Assistant State Commissioner of Health and fix the qualifications, duties and compensation of the Assistant State Commissioner of Health; and employ, appoint and contract with, and fix the qualifications, duties and compensation of, such other assistants, doctors, engineers, attorneys, sanitarians, nurses, laboratory personnel, administrative, clerical and technical help, investigators, aides and other personnel and help, either on a full-time, part-time, fee or contractual basis, as shall be deemed by the Commissioner necessary, expedient, convenient or appropriate to the performance or carrying out of any of the purposes, objectives or provisions of this Code, or to assist the Commissioner in the performance of official duties and functions-; i

4. Cause investigations, inquiries and inspections to be made, and hold hearings and issue orders pursuant to the provisions of the Administrative Procedures Act, to enforce and make effective the provisions of this Code, and all rules and standards adopted by the Commissioner pursuant to law and the Commissioner or the representative of the Commissioner shall have the right of access to any premises for such purpose at any reasonable time, upon presentation of identification-; i

5. Authorize persons in the State Department of Health to conduct investigations, inquiries and hearings, and to perform other acts that the Commissioner is authorized or required to conduct or perform personally-; i

6. Except as otherwise provided by law, all civil and criminal proceedings under this Code shall be initiated and prosecuted by the district attorney where the violation takes place-; i

7. Issue subpoenas for the attendance of witnesses and the production of books and records at any hearing to be conducted by the Commissioner and issue subpoenas for the testimony of individuals or for the production of records in connection with an investigation conducted by the Office of Client Advocacy within the State Department of Health; and if a person disobeys any such subpoena, or refuses to give evidence before, or to allow books and records to be examined by, the Commissioner after such person is directed to do so, the Commissioner may file a contempt proceeding in the district court of the county in which the premises involved

are situated, or, if no premises are involved, of the county in which such person resides or has a principal place of business, and a judge of such court, after a trial de novo, may punish the offending person for contempt-i;

8. Unless otherwise required by the terms of a federal grant, sell, exchange or otherwise dispose of personal property that has been acquired by the State Department of Health, or any of its components, when such property becomes obsolete or is no longer needed; any money derived therefrom shall be deposited in the Public Health Special Fund-i;

9. Sell films, educational materials, biological products and other items produced by the State Department of Health; and all proceeds therefrom shall be deposited in the Public Health Special Fund-i;

10. Revoke or cancel, or suspend for any period up to one (1) year, any license or permit issued under or pursuant to this Code, or by the Commissioner, when the Commissioner determines that ground therefor as prescribed by this Code exists, or that the holder of such license or permit has violated any law, or any of the provisions of this Code, or any rules or standards of the Commissioner filed with the Secretary of State, but the Commissioner shall first afford the holder an opportunity to show cause why the license or permit should not be revoked, canceled or suspended, notice of such opportunity to be given by certified United States Mail to the holder of the license or permit at the last-known address of such holder-i;

11. Accept, use, disburse and administer grants, allotments, gifts, devises, bequests, appropriations and other monies and property offered or given to the State Department of Health, or any component or agency thereof, by any agency of the federal government, or any corporation or individual-i;

12. Be the official agency of the State of Oklahoma in all matters relating to public health which require or authorize cooperation of the State of Oklahoma with the federal government or any agency thereof; coordinate the activities of the State Department of Health with those of the federal government or any department or agency thereof, and with other states, on matters

pertaining to public health, and enter into agreements for such purpose, and may accept, use, disburse and administer, for the office of the Commissioner or for the State Department of Health, for any purpose designated and on the terms and conditions thereof, grants of money, personnel and property from the federal government or any department or agency thereof, or from any state or state agency, or from any other source, to promote and carry on in this state any program relating to the public health or the control of disease, and enter into agreements for such purposes-;

13. ~~The State Commissioner of Health may appoint~~ Appoint commissioned peace officers, certified by the Council on Law Enforcement Education and Training, to investigate violations of the Public Health Code and to provide security to Department facilities-; and

14. Pursuant to ~~Section 2 of this act~~ Section 1-106.4 of this title, ~~the State Commissioner of Health shall~~ appoint a Chief Medical Officer who reports directly to the ~~State Commissioner of Health~~ Commissioner.

SECTION 14. It being immediately necessary for the preservation of the public peace, health or safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 11th day of March, 2025.

\_\_\_\_\_  
Presiding Officer of the Senate

Passed the House of Representatives the 5th day of May, 2025.

\_\_\_\_\_  
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: \_\_\_\_\_