

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 4421

By: Hilbert

6 AS INTRODUCED

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

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

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

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

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

- 7 a. provide investigation support and to assist
8 caseworkers with assessment decisions and intervention
9 activities,
- 10 b. serve as consultants to caseworkers in all aspects of
11 their duties, and
- 12 c. designate persons who shall act as liaisons within the
13 Department whose primary functions are to develop
14 relationships with local law enforcement agencies and
15 courts.

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

20 4. The Department shall determine the military status of
21 parents whose children are subject to abuse or neglect. If the
22 Department determines that a parent or guardian is currently serving
23 on active duty in the United States military, the Department shall
24 notify a United States Department of Defense family advocacy program

1 that there is an investigation into the parent or guardian. The
2 Department shall forward a report of its assessment or investigation
3 and findings to the appropriate military law enforcement entity.

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

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

19 B. 1. Upon receipt of a report that a child may be drug-
20 endangered, the Department of Human Services shall conduct a safety
21 analysis within twenty-four (24) hours and shall attempt to acquire
22 consent for an immediate drug screening for any parent, guardian, or
23 caregiver if substance use is suspected, including, but not limited
24 to, methamphetamine production or use, opioid exposure, or any

1 indication of fentanyl presence, including indication via report,
2 observation, or prior history. If the parent, guardian, or
3 caregiver refuses to consent to a drug screening and substance use
4 is suspected, pursuant to this subsection, the Department shall
5 report to a district attorney within twenty-four (24) hours to
6 request a court order to compel the parent, guardian, or caregiver
7 submit to a drug screening. All drug screenings shall include
8 mandatory fentanyl testing.

9 2. Drug testing shall occur:

- 10 a. at intake for investigations and removals, pursuant to
11 subsection 1 of this section,
- 12 b. as part of ongoing monitoring in open cases, or upon
13 reasonable suspicion, and
- 14 c. prior to any reunification, visitation expansion, or
15 case closure.

16 3. If, upon receipt of a report alleging that a child is drug-

17 endangered, the Department determines that drug activity is
18 indicated, the Department shall immediately make a referral, either
19 verbally or in writing, to the appropriate local law enforcement
20 agency for the purpose of conducting a possible criminal
21 investigation.

22 C. 1. If, upon receipt of a report alleging abuse or neglect
23 or during the assessment or investigation, the Department determines
24 that:

1 a. the alleged perpetrator is someone other than a person
2 responsible for the child's health, safety, or
3 welfare, and
4 b. the alleged abuse or neglect of the child does not
5 appear to be attributable to failure on the part of a
6 person responsible for the child's health, safety, or
7 welfare to provide protection for the child,
8 the Department shall immediately make a referral, in writing, to the
9 appropriate local law enforcement agency for the purpose of
10 conducting a possible criminal investigation. The Department shall
11 maintain a record of its transmission of each report to law
12 enforcement.

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

16 a. the Department has reason to believe the alleged
17 perpetrator is a parent of another child, not the
18 subject of the criminal investigation, or is otherwise
19 a person responsible for the health, safety, or
20 welfare of another child,
21 b. notice is received from a law enforcement agency that
22 it has determined the alleged perpetrator is a parent
23 of or a person responsible for the health, safety, or
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welfare of another child not the subject of the criminal investigation, or the appropriate law enforcement agency requests the Department to assist in the investigation. If funds and personnel are available, as determined by the Director of the Department or a designee, the Department may assist law enforcement in interviewing children alleged to be victims of physical or sexual abuse.

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

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

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

1 C. D. 1. Any law enforcement agency receiving a referral as
2 provided in this section shall provide the Department with a copy of
3 the report of any investigation resulting from a referral from the
4 Department.

5 2. Whenever, in the course of any criminal investigation, a law
6 enforcement agency determines that there is cause to believe that a
7 child, other than a child in the custody of the Office of Juvenile
8 Affairs and placed in an Office of Juvenile Affairs secure juvenile
9 facility, may be abused or neglected by reason of the acts,
10 omissions, or failures on the part of a person responsible for the
11 health, safety, or welfare of the child, the law enforcement agency
12 shall immediately contact the Department for the purpose of an
13 investigation.

14 D. E. If, upon receipt of a report alleging abuse or neglect,
15 the Department determines that the family has been the subject of a
16 deprived petition, the Department shall conduct a thorough
17 investigation of the allegations and shall not limit the evaluation
18 of the circumstances to an assessment. In addition, if the family
19 has been the subject of three or more referrals, the Department
20 shall conduct a thorough investigation of the allegations and shall
21 not limit the evaluation of the circumstances to an assessment.

22 E. F. For the purposes of this section, "law enforcement" shall
23 include military law enforcement if the subject of an investigation
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1 of abuse or neglect is currently serving in any branch of the United
2 States military.

3 F. G. The Department shall promulgate rules within sixty (60)
4 days of this act to implement the provisions of this section.

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

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

11 B. The Department of Human Services shall cover the cost when
12 the individual:

- 13 1. Is enrolled in a state or federal voucher program;
- 14 2. Receives qualifying public assistance; or
- 15 3. Demonstrates financial hardship via affidavit.

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

19 A. There is hereby created in the State Treasury a revolving
20 fund for the Department of Human Services to be designated the
21 "Child Welfare Fentanyl Testing Revolving Fund". The fund shall be
22 a continuing fund, not subject to fiscal year limitations, and shall
23 consist of the fifty-dollar fine imposed pursuant to paragraph 2 of
24 subsection D of Section 4 of this act. All monies accruing to the

1 credit of said fund are hereby appropriated and may be budgeted and
2 expended by the Department of Human Services for the purpose of
3 offsetting the Department of Human Services' drug testing costs.
4 Expenditures from said fund shall be made upon warrants issued by
5 the State Treasurer against claims filed as prescribed by law with
6 the Director of the Office of Management and Enterprise Services for
7 approval and payment.

8 B. The Oklahoma State Auditor and Inspector shall audit the
9 fund annually.

10 C. The Department of Human Services shall submit an annual
11 report by December 31 to the Speaker of the Oklahoma House of
12 Representatives and the President Pro Tempore of the Oklahoma State
13 Senate that includes, but is not limited to, testing volumes, costs,
14 positives rates, and fund balance, including impacts on child safety
15 outcomes.

16 SECTION 4. AMENDATORY 21 O.S. 2021, Section 852.1, as
17 amended by Section 187, Chapter 486, O.S.L. 2025 (21 O.S. Supp.
18 2025, Section 852.1), is amended to read as follows:

19 Section 852.1. A. A person who is the parent, guardian, or
20 person having custody or control over a child as defined in Section
21 1-1-105 of Title 10A of the Oklahoma Statutes, commits child
22 endangerment when the person:

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

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

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

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

13 4. 5. Is the driver, operator, or person in physical control of
14 a vehicle in violation of Section 11-902 of Title 47 of the Oklahoma
15 Statutes while transporting or having in the vehicle such child or
16 children.

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

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

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

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

12 C. D. 1. Any person convicted of violating any provision of
13 this section shall be guilty of a Class B6 felony offense punishable
14 by imprisonment in the custody of the Department of Corrections for
15 a term of not more than four (4) years, or by a fine not exceeding
16 Five Thousand Dollars (\$5,000.00), or by both such fine and
17 imprisonment.

18 2. If fentanyl was present or detected in the endangerment that
19 led to the conviction, the person convicted shall be guilty of a
20 felony punishable by imprisonment in the custody of the Department
21 of Corrections for a term of not more than five (5) years, or by a
22 fine not exceeding Five Thousand Dollars (\$5,000.00), or by both
23 such fine and imprisonment. Such person shall also pay a mandatory
24 fine of Fifty Dollars (\$50.00) to the State Treasury to be deposited

1 in the Child Welfare Fentanyl Testing Revolving Fund, pursuant to
2 Section 3 of this act.

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

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