

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 SENATE BILL 728

By: Griffin

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5
6 AS INTRODUCED

7 An Act relating to the Oklahoma Children's Code;
8 amending 10A O.S. 2011, Section 1-2-105, as last
9 amended by Section 2, Chapter 130, O.S.L. 2016 (10A
10 O.S. Supp. 2016, Section 1-2-105), which relates to
11 investigations of abuse or neglect; directing
12 collaboration for certain decisions; and providing an
13 effective date.

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

15 SECTION 1. AMENDATORY 10A O.S. 2011, Section 1-2-105, as
16 last amended by Section 2, Chapter 130, O.S.L. 2016 (10A O.S. Supp.
17 2016, Section 1-2-105), is amended to read as follows:

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

1 promulgated by the Department. The primary purpose of the
2 investigation or assessment shall be the protection of the child.
3 For investigations or assessments, the Department shall give special
4 consideration to the risks of any minor, including a child with a
5 disability, who is unable to communicate effectively about abuse,
6 neglect or other safety threat or who is in a vulnerable position
7 due to the inability to communicate effectively.

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

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

1 or any other person responsible for the health, safety, or welfare
2 of the child and an interview with and examination of any child in
3 the home.

4 2. The investigation or assessment may include a medical,
5 psychological, or psychiatric examination of any child in the home.
6 If admission to the home, school, or any place where the child may
7 be located cannot be obtained, then the district court having
8 jurisdiction, upon application by the district attorney and upon
9 cause shown, shall order the person responsible for the health,
10 safety, or welfare of the child, or the person in charge of any
11 place where the child may be located, to allow entrance for the
12 interview, the examination, and the investigation or assessment. If
13 the person responsible for the health, safety, or welfare of the
14 child does not consent to a medical, psychological, or psychiatric
15 examination of the child that is requested by the Department, the
16 district court having jurisdiction, upon application by the district
17 attorney and upon cause shown, shall order the examination to be
18 made at the times and places designated by the court.

19 3. The investigation or assessment may include an inquiry into
20 the possibility that the child or a person responsible for the
21 health, safety, or welfare of the child has a history of mental
22 illness. If the person responsible for the child's health, safety,
23 or welfare does not allow the Department to have access to
24 behavioral health records or treatment plans requested by the

1 Department, which may be relevant to the alleged abuse or neglect,
2 the district court having jurisdiction, upon application by the
3 district attorney and upon good cause shown, shall by order allow
4 the Department to have access to the records pursuant to terms and
5 conditions prescribed by the court.

6 4. a. If the court determines that the subject of the
7 behavioral health records is indigent, the court shall
8 appoint an attorney to represent that person at the
9 hearing to obtain behavioral health records.

10 b. A person responsible for the health, safety, or
11 welfare of the child is entitled to notice and a
12 hearing when the Department seeks a court order to
13 allow a psychological or psychiatric examination or
14 access to behavioral health records.

15 c. Access to behavioral health records does not
16 constitute a waiver of confidentiality.

17 5. The investigation of a report of sexual abuse or serious
18 physical abuse or both sexual abuse and serious physical abuse shall
19 be conducted, when appropriate and possible, using a
20 multidisciplinary team approach as provided by Section 1-9-102 of
21 this title. Law enforcement and the Department shall exchange
22 investigation information.

23 6. The investigation or assessment shall include an inquiry
24 into whether the person responsible for the health, safety or

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

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

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

3 D. 1. The Department shall engage in a collaborative decision-
4 making process to address each child's needs related to safety and
5 whether the child's condition warrants a safety intervention.

6 2. If, before the assessment or investigation is complete, the
7 Department determines that immediate removal of the child is
8 necessary to protect the child from further abuse or neglect, the
9 Department shall recommend that the child be taken into custody
10 prior to the emergency custody hearing.

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

16 F. The Department, where appropriate and in its discretion,
17 shall identify prevention- and intervention-related services
18 available in the community and refer the family to or arrange for
19 such services when an investigation or assessment indicates the
20 family would benefit from such services, or the Department may
21 provide such services directly. The Department shall document in
22 the record its attempts to provide, refer or arrange for the
23 provision of voluntary services and shall determine within sixty
24 (60) days whether the family has accessed those services directly

1 related to safety of the child. If the family refuses voluntary
2 services or does not access those services directly related to
3 safety of the child, and it is determined by the Department that the
4 child's surroundings endanger the health, safety, or welfare of the
5 child, the Department may recommend that the child be placed in
6 protective or emergency custody or that a petition be filed.

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

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

22 I. Child Welfare Services, in collaboration with the
23 Developmental Disabilities Services Division, shall implement a
24 protocol to be used in cases where the subject child is a child with

1 a disability who has complex medical needs, and the protocol shall
2 include, but not be limited to: resource coordination, medical
3 consultation or medical evaluation, when needed.

4 SECTION 2. This act shall become effective November 1, 2017.

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