

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 SENATE BILL 993

By: Griffin

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5  
6 AS INTRODUCED

7 An Act relating to vulnerable adults; amending 43A  
8 O.S. 2011, Section 10-105, which relates to  
9 investigation of report; requiring joint  
10 investigations under certain circumstances; requiring  
11 interviews with certain persons; establishing  
12 requirements for certain investigators; establishing  
13 requirements for certain interviews; and providing an  
14 effective date.

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

16 SECTION 1. AMENDATORY 43A O.S. 2011, Section 10-105, is  
17 amended to read as follows:

18 Section 10-105. A. Upon receiving a report of alleged abuse,  
19 neglect, or exploitation of a vulnerable adult pursuant to the  
20 provisions of the Protective Services for Vulnerable Adults Act, the  
21 Department of Human Services shall make a prompt and thorough  
22 investigation. When feasible, law enforcement and the Department  
23 shall conduct joint investigations in order to reduce potential  
24 trauma to the victim and to eliminate duplicative efforts.

B. The investigation ~~by the Department~~ shall include:

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

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

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

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

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

23           6. A statement of the least restrictive services needed;

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1 7. Whether services are available from the Department or in the  
2 community and how the services can be provided;

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

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

8 10. Whether the person desires the services;

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

11 12. Other relevant information.

12 C. 1. a. ~~The Department's investigation~~ Investigations

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

19 b. Investigators shall be suitably trained with  
20 demonstrated competency in evidence-informed forensic  
21 interviewing techniques utilizing protocols for  
22 elderly and incapacitated adults and individuals with  
23 intellectual disabilities. Interviews shall be  
24 conducted at the appropriate developmental age level

1           of the victim. A reasonable effort shall be made to  
2           conduct interviews of vulnerable adult victims with an  
3           intellectual disability or diminished capacity at a  
4           child advocacy center, utilizing appropriate personnel  
5           and following protocols and procedures established for  
6           forensic interviews.

7           c. If, in the course of an investigation of this nature,  
8           the Department is denied entrance to the home or other  
9           place of residence of a person believed to be a  
10          vulnerable adult in need of protective services, or is  
11          denied a private interview with the vulnerable adult,  
12          the Department may petition the court for an order  
13          allowing entry to the premises or private access to  
14          the vulnerable adult. The court shall make a finding  
15          of probable cause of the vulnerability of the adult  
16          before issuing the order. If documentation, or access  
17          to records, or other information relating to such  
18          person as provided by this section is denied, the  
19          Department may petition the court for an order  
20          allowing entry or access.

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

1 3. If it is necessary to forcibly enter the premises, the  
2 representative of the Department shall make the entry accompanied by  
3 a peace officer.

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

9 D. When a report is received pertaining to a vulnerable adult  
10 who has a legal guardian, a copy of the investigative report of the  
11 Department shall be filed with the court to which the guardian is  
12 accountable.

13 E. 1. In the case of a final investigative report pertaining  
14 to a vulnerable adult who is a resident of a nursing facility,  
15 residential care facility, assisted living facility or continuum of  
16 care facility and who is alleged to be a victim of abuse, verbal  
17 abuse, neglect, or exploitation by an employee of such facility, the  
18 Department shall forward to the State Department of Health a copy of  
19 the Department's final investigative report.

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

3 a. Within thirty (30) days of receipt of the final  
4 investigative report submitted by the Department of  
5 Human Services pursuant to this section, the State  
6 Department of Health shall provide the Department of  
7 Human Services with a written summary of any action  
8 taken as a result of the complaint including, but not  
9 limited to, results of any inspections, enforcement  
10 actions or actions which may be taken by the State  
11 Department of Health.

12 b. Whenever the Department of Human Services believes  
13 that the conditions giving rise to a complaint by the  
14 Department alleging a serious threat to the health,  
15 safety or welfare of a resident of a nursing facility,  
16 residential care facility, assisted living facility or  
17 continuum of care facility have not been adequately  
18 addressed, the Department of Human Services may  
19 request the State Department of Health to hold a  
20 hearing on the complaint as provided by Section 309 of  
21 Title 75 of the Oklahoma Statutes.

22 3. Nothing herein shall prevent the State Department of Health  
23 from conducting any type of investigation or taking any appropriate  
24 remedial or other action pursuant to the provisions of the Nursing

1 Home Care Act, the Residential Care Act and the Continuum of Care  
2 and Assisted Living Act.

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

11 SECTION 2. This act shall become effective November 1, 2018.

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