

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 56th Legislature (2018)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 3104

By: Ownbey of the House

and

Griffin of the Senate

7
8
9
10 COMMITTEE SUBSTITUTE

11 An Act relating to children; amending 10A O.S. 2011,
12 Section 1-1-105, as last amended by Section 1,
13 Chapter 342, O.S.L. 2017 (10A O.S. Supp. 2017,
14 Section 1-1-105), which relates to definitions;
15 modifying drug-endangered child definition; amending
16 10A O.S. 2011, Sections 1-2-101, as last amended by
17 Section 1, Chapter 62, O.S.L. 2016 and 1-2-102, as
18 last amended by Section 1, Chapter 66, O.S.L. 2016
19 (10A O.S. Supp. 2017, Sections 1-2-101 and 1-2-102),
20 which relate to child welfare reporting and
21 investigations; revising reporting requirements for
22 certain health care providers; including infants
23 diagnosed with specified medical conditions;
24 providing for investigation after referral is
 accepted for a drug endangered child; and declaring
 an emergency.

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

SECTION 1. AMENDATORY 10A O.S. 2011, Section 1-1-105, as
last amended by Section 1, Chapter 342, O.S.L. 2017 (10A O.S. Supp.
2017, Section 1-1-105), is amended to read as follows:

1 Section 1-1-105. When used in the Oklahoma Children's Code,
2 unless the context otherwise requires:

3 1. "Abandonment" means:

- 4 a. the willful intent by words, actions, or omissions not
5 to return for a child, or
- 6 b. the failure to maintain a significant parental
7 relationship with a child through visitation or
8 communication in which incidental or token visits or
9 communication are not considered significant, or
- 10 c. the failure to respond to notice of deprived
11 proceedings;

12 2. "Abuse" means harm or threatened harm to the health, safety,
13 or welfare of a child by a person responsible for the child's
14 health, safety, or welfare, including but not limited to
15 nonaccidental physical or mental injury, sexual abuse, or sexual
16 exploitation. Provided, however, that nothing contained in the
17 Oklahoma Children's Code shall prohibit any parent from using
18 ordinary force as a means of discipline including, but not limited
19 to, spanking, switching, or paddling.

- 20 a. "Harm or threatened harm to the health or safety of a
21 child" means any real or threatened physical, mental,
22 or emotional injury or damage to the body or mind that
23 is not accidental including but not limited to sexual
24 abuse, sexual exploitation, neglect, or dependency.

1 b. "Sexual abuse" includes but is not limited to rape,
2 incest, and lewd or indecent acts or proposals made to
3 a child, as defined by law, by a person responsible
4 for the health, safety, or welfare of the child.

5 c. "Sexual exploitation" includes but is not limited to
6 allowing, permitting, encouraging, or forcing a child
7 to engage in prostitution, as defined by law, by any
8 person eighteen (18) years of age or older or by a
9 person responsible for the health, safety, or welfare
10 of a child, or allowing, permitting, encouraging, or
11 engaging in the lewd, obscene, or pornographic, as
12 defined by law, photographing, filming, or depicting
13 of a child in those acts by a person responsible for
14 the health, safety, and welfare of the child;

15 3. "Adjudication" means a finding by the court that the
16 allegations in a petition alleging that a child is deprived are
17 supported by a preponderance of the evidence;

18 4. "Adjudicatory hearing" means a hearing by the court as
19 provided by Section 1-4-601 of this title;

20 5. "Age-appropriate or developmentally appropriate" means:

21 a. activities or items that are generally accepted as
22 suitable for children of the same age or level of
23 maturity or that are determined to be developmentally
24 appropriate for a child, based on the development of

1 cognitive, emotional, physical, and behavioral
2 capacities that are typical for an age or age group,
3 and

- 4 b. in the case of a specific child, activities or items
5 that are suitable for that child based on the
6 developmental stages attained by the child with
7 respect to the cognitive, emotional, physical, and
8 behavioral capacities of the specific child.

9 In the event that any age-related activities have implications
10 relative to the academic curriculum of a child, nothing in this
11 paragraph shall be construed to authorize an officer or employee of
12 the federal government to mandate, direct, or control a state or
13 local educational agency, or the specific instructional content,
14 academic achievement standards and assessments, curriculum, or
15 program of instruction of a school;

16 6. "Assessment" means a comprehensive review of child safety
17 and evaluation of family functioning and protective capacities that
18 is conducted in response to a child abuse or neglect referral that
19 does not allege a serious and immediate safety threat to a child;

20 7. "Behavioral health" means mental health, substance abuse, or
21 co-occurring mental health and substance abuse diagnoses, and the
22 continuum of mental health, substance abuse, or co-occurring mental
23 health and substance abuse treatment;

1 8. "Child" means any unmarried person under eighteen (18) years
2 of age;

3 9. "Child advocacy center" means a center and the
4 multidisciplinary child abuse team of which it is a member that is
5 accredited by the National Children's Alliance or that is completing
6 a sixth year of reaccreditation. Child advocacy centers shall be
7 classified, based on the child population of a district attorney's
8 district, as follows:

9 a. nonurban centers in districts with child populations
10 that are less than sixty thousand (60,000), and

11 b. midlevel nonurban centers in districts with child
12 populations equal to or greater than sixty thousand
13 (60,000), but not including Oklahoma and Tulsa
14 counties;

15 10. "Child with a disability" means any child who has a
16 physical or mental impairment which substantially limits one or more
17 of the major life activities of the child, or who is regarded as
18 having such an impairment by a competent medical professional;

19 11. "Child-placing agency" means an agency that arranges for or
20 places a child in a foster family home, group home, adoptive home,
21 or a successful adulthood program;

22 12. "Children's emergency resource center" means a community-
23 based program that may provide emergency care and a safe and
24 structured homelike environment or a host home for children

1 providing food, clothing, shelter and hygiene products to each child
2 served; after-school tutoring; counseling services; life-skills
3 training; transition services; assessments; family reunification;
4 respite care; transportation to or from school, doctors'
5 appointments, visitations and other social, school, court or other
6 activities when necessary; and a stable environment for children in
7 crisis who are in custody of the Department of Human Services if
8 permitted under the Department's policies and regulations, or who
9 have been voluntarily placed by a parent or custodian during a
10 temporary crisis;

11 13. "Community-based services" or "community-based programs"
12 means services or programs which maintain community participation or
13 supervision in their planning, operation, and evaluation.
14 Community-based services and programs may include, but are not
15 limited to, emergency shelter, crisis intervention, group work, case
16 supervision, job placement, recruitment and training of volunteers,
17 consultation, medical, educational, home-based services, vocational,
18 social, preventive and psychological guidance, training, counseling,
19 early intervention and diversionary substance abuse treatment,
20 sexual abuse treatment, transitional living, independent living, and
21 other related services and programs;

22 14. "Concurrent permanency planning" means, when indicated, the
23 implementation of two plans for a child entering foster care. One
24 plan focuses on reuniting the parent and child; the other seeks to

1 find a permanent out-of-home placement for the child with both plans
2 being pursued simultaneously;

3 15. "Court-appointed special advocate" or "CASA" means a
4 responsible adult volunteer who has been trained and is supervised
5 by a court-appointed special advocate program recognized by the
6 court, and when appointed by the court, serves as an officer of the
7 court in the capacity as a guardian ad litem;

8 16. "Court-appointed special advocate program" means an
9 organized program, administered by either an independent, not-for-
10 profit corporation, a dependent project of an independent, not-for-
11 profit corporation or a unit of local government, which recruits,
12 screens, trains, assigns, supervises and supports volunteers to be
13 available for appointment by the court as guardians ad litem;

14 17. "Custodian" means an individual other than a parent, legal
15 guardian or Indian custodian, to whom legal custody of the child has
16 been awarded by the court. As used in this title, the term
17 "custodian" shall not mean the Department of Human Services;

18 18. "Day treatment" means a nonresidential program which
19 provides intensive services to a child who resides in the child's
20 own home, the home of a relative, group home, a foster home or
21 residential child care facility. Day treatment programs include,
22 but are not limited to, educational services;

23 19. "Department" means the Department of Human Services;

24

1 20. "Dependency" means a child who is homeless or without
2 proper care or guardianship through no fault of his or her parent,
3 legal guardian, or custodian;

4 21. "Deprived child" means a child:

- 5 a. who is for any reason destitute, homeless, or
6 abandoned,
- 7 b. who does not have the proper parental care or
8 guardianship,
- 9 c. who has been abused, neglected, or is dependent,
- 10 d. whose home is an unfit place for the child by reason
11 of depravity on the part of the parent or legal
12 guardian of the child, or other person responsible for
13 the health or welfare of the child,
- 14 e. who is a child in need of special care and treatment
15 because of the child's physical or mental condition,
16 and the child's parents, legal guardian, or other
17 custodian is unable or willfully fails to provide such
18 special care and treatment. As used in this
19 paragraph, a child in need of special care and
20 treatment includes, but is not limited to, a child who
21 at birth tests positive for alcohol or a controlled
22 dangerous substance and who, pursuant to a drug or
23 alcohol screen of the child and an assessment of the
24

- 1 parent, is determined to be at risk of harm or
2 threatened harm to the health or safety of a child,
3 f. who is a child with a disability deprived of the
4 nutrition necessary to sustain life or of the medical
5 treatment necessary to remedy or relieve a life-
6 threatening medical condition in order to cause or
7 allow the death of the child if such nutrition or
8 medical treatment is generally provided to similarly
9 situated children without a disability or children
10 with disabilities; provided that no medical treatment
11 shall be necessary if, in the reasonable medical
12 judgment of the attending physician, such treatment
13 would be futile in saving the life of the child,
14 g. who, due to improper parental care and guardianship,
15 is absent from school as specified in Section 10-106
16 of Title 70 of the Oklahoma Statutes, if the child is
17 subject to compulsory school attendance,
18 h. whose parent, legal guardian or custodian for good
19 cause desires to be relieved of custody,
20 i. who has been born to a parent whose parental rights to
21 another child have been involuntarily terminated by
22 the court and the conditions which led to the making
23 of the finding, which resulted in the termination of
24

1 the parental rights of the parent to the other child,
2 have not been corrected, or

3 j. whose parent, legal guardian, or custodian has
4 subjected another child to abuse or neglect or has
5 allowed another child to be subjected to abuse or
6 neglect and is currently a respondent in a deprived
7 proceeding.

8 Nothing in the Oklahoma Children's Code shall be construed to
9 mean a child is deprived for the sole reason the parent, legal
10 guardian, or person having custody or control of a child, in good
11 faith, selects and depends upon spiritual means alone through
12 prayer, in accordance with the tenets and practice of a recognized
13 church or religious denomination, for the treatment or cure of
14 disease or remedial care of such child.

15 Nothing contained in this paragraph shall prevent a court from
16 immediately assuming custody of a child and ordering whatever action
17 may be necessary, including medical treatment, to protect the
18 child's health or welfare;

19 22. "Dispositional hearing" means a hearing by the court as
20 provided by Section 1-4-706 of this title;

21 23. "Drug-endangered child" means a child who is at risk of
22 suffering physical, psychological or sexual harm as a result of the
23 use, possession, distribution, manufacture or cultivation of
24 controlled substances, or the attempt of any of these acts, by a

1 person responsible for the health, safety or welfare of the child,
2 as defined in ~~paragraph 51~~ of this section. This term includes
3 circumstances wherein the substance abuse of the person responsible
4 for the health, safety or welfare of the child interferes with that
5 person's ability to parent and provide a safe and nurturing
6 environment for the child. ~~The term also includes newborns who test~~
7 ~~positive for a controlled dangerous substance, with the exception of~~
8 ~~those substances administered under the care of a physician;~~

9 24. "Emergency custody" means the custody of a child prior to
10 adjudication of the child following issuance of an order of the
11 district court pursuant to Section 1-4-201 of this title or
12 following issuance of an order of the district court pursuant to an
13 emergency custody hearing, as specified by Section 1-4-203 of this
14 title;

15 25. "Facility" means a place, an institution, a building or
16 part thereof, a set of buildings, or an area whether or not
17 enclosing a building or set of buildings used for the lawful custody
18 and treatment of children;

19 26. "Failure to protect" means failure to take reasonable
20 action to remedy or prevent child abuse or neglect, and includes the
21 conduct of a non-abusing parent or guardian who knows the identity
22 of the abuser or the person neglecting the child, but lies, conceals
23 or fails to report the child abuse or neglect or otherwise take
24 reasonable action to end the abuse or neglect;

1 27. "Foster care" or "foster care services" means continuous
2 twenty-four-hour care and supportive services provided for a child
3 in foster placement including, but not limited to, the care,
4 supervision, guidance, and rearing of a foster child by the foster
5 parent;

6 28. "Foster family home" means the private residence of a
7 foster parent who provides foster care services to a child. Such
8 term shall include a nonkinship foster family home, a therapeutic
9 foster family home, or the home of a relative or other kinship care
10 home;

11 29. "Foster parent eligibility assessment" includes a criminal
12 background investigation including, but not limited to, a national
13 criminal history records search based upon the submission of
14 fingerprints, home assessments, and any other assessment required by
15 the Department of Human Services, the Office of Juvenile Affairs, or
16 any child-placing agency pursuant to the provisions of the Oklahoma
17 Child Care Facilities Licensing Act;

18 30. "Guardian ad litem" means a person appointed by the court
19 pursuant to the provisions of Section 1-4-306 of this title having
20 those duties and responsibilities as set forth in that section. The
21 term "guardian ad litem" shall refer to a court-appointed special
22 advocate as well as to any other person appointed pursuant to the
23 provisions of Section 1-4-306 of this title to serve as a guardian
24 ad litem;

1 31. "Guardian ad litem of the estate of the child" means a
2 person appointed by the court to protect the property interests of a
3 child pursuant to Section 1-8-108 of this title;

4 32. "Group home" means a residential facility licensed by the
5 Department to provide full-time care and community-based services
6 for more than five but fewer than thirteen children;

7 33. "Harm or threatened harm to the health or safety of a
8 child" means any real or threatened physical, mental, or emotional
9 injury or damage to the body or mind that is not accidental
10 including, but not limited to, sexual abuse, sexual exploitation,
11 neglect, or dependency;

12 34. "Heinous and shocking abuse" includes, but is not limited
13 to, aggravated physical abuse that results in serious bodily,
14 mental, or emotional injury. "Serious bodily injury" means injury
15 that involves:

- 16 a. a substantial risk of death,
- 17 b. extreme physical pain,
- 18 c. protracted disfigurement,
- 19 d. a loss or impairment of the function of a body member,
20 organ, or mental faculty,
- 21 e. an injury to an internal or external organ or the
22 body,
- 23 f. a bone fracture,
- 24 g. sexual abuse or sexual exploitation,

- 1 h. chronic abuse including, but not limited to, physical,
2 emotional, or sexual abuse, or sexual exploitation
3 which is repeated or continuing,
4 i. torture that includes, but is not limited to,
5 inflicting, participating in or assisting in
6 inflicting intense physical or emotional pain upon a
7 child repeatedly over a period of time for the purpose
8 of coercing or terrorizing a child or for the purpose
9 of satisfying the craven, cruel, or prurient desires
10 of the perpetrator or another person, or
11 j. any other similar aggravated circumstance;

12 35. "Heinous and shocking neglect" includes, but is not limited
13 to:

- 14 a. chronic neglect that includes, but is not limited to,
15 a persistent pattern of family functioning in which
16 the caregiver has not met or sustained the basic needs
17 of a child which results in harm to the child,
18 b. neglect that has resulted in a diagnosis of the child
19 as a failure to thrive,
20 c. an act or failure to act by a parent that results in
21 the death or near death of a child or sibling, serious
22 physical or emotional harm, sexual abuse, sexual
23 exploitation, or presents an imminent risk of serious
24 harm to a child, or

1 d. any other similar aggravating circumstance;

2 36. "Individualized service plan" means a document written
3 pursuant to Section 1-4-704 of this title that has the same meaning
4 as "service plan" or "treatment plan" where those terms are used in
5 the Oklahoma Children's Code;

6 37. "Infant" means a child who is twelve (12) months of age or
7 younger;

8 38. "Institution" means a residential facility offering care
9 and treatment for more than twenty residents;

10 39. a. "Investigation" means a response to an allegation of
11 abuse or neglect that involves a serious and immediate
12 threat to the safety of the child, making it necessary
13 to determine:

14 (1) the current safety of a child and the risk of
15 subsequent abuse or neglect, and

16 (2) whether child abuse or neglect occurred and
17 whether the family needs prevention- and
18 intervention-related services.

19 b. "Investigation" results in a written response stating
20 one of the following findings:

21 (1) "substantiated" means the Department has
22 determined, after an investigation of a report of
23 child abuse or neglect and based upon some
24 credible evidence, that child abuse or neglect

1 has occurred. When child abuse or neglect is
2 substantiated, the Department may recommend:

3 (a) court intervention if the Department finds
4 the health, safety, or welfare of the child
5 is threatened, or

6 (b) child abuse and neglect prevention- and
7 intervention-related services for the child,
8 parents or persons responsible for the care
9 of the child if court intervention is not
10 determined to be necessary,

11 (2) "unsubstantiated" means the Department has
12 determined, after an investigation of a report of
13 child abuse or neglect, that insufficient
14 evidence exists to fully determine whether child
15 abuse or neglect has occurred. If child abuse or
16 neglect is unsubstantiated, the Department may
17 recommend, when determined to be necessary, that
18 the parents or persons responsible for the care
19 of the child obtain child abuse and neglect
20 prevention- and intervention-related services, or

21 (3) "ruled out" means a report in which a child
22 protective services specialist has determined,
23 after an investigation of a report of child abuse
24

1 or neglect, that no child abuse or neglect has
2 occurred;

3 40. "Kinship care" means full-time care of a child by a kinship
4 relation;

5 41. "Kinship guardianship" means a permanent guardianship as
6 defined in this section;

7 42. "Kinship relation" or "kinship relationship" means
8 relatives, stepparents, or other responsible adults who have a bond
9 or tie with a child and/or to whom has been ascribed a family
10 relationship role with the child's parents or the child; provided,
11 however, in cases where the Indian Child Welfare Act applies, the
12 definitions contained in 25 U.S.C., Section 1903 shall control;

13 43. "Mental health facility" means a mental health or substance
14 abuse treatment facility as defined by the Inpatient Mental Health
15 and Substance Abuse Treatment of Minors Act;

16 44. "Minor" means the same as the term "child" as defined in
17 this section;

18 45. "Minor in need of treatment" means a child in need of
19 mental health or substance abuse treatment as defined by the
20 Inpatient Mental Health and Substance Abuse Treatment of Minors Act;

21 46. "Multidisciplinary child abuse team" means any team
22 established pursuant to Section 1-9-102 of this title of three or
23 more persons who are trained in the prevention, identification,
24 investigation, prosecution, and treatment of physical and sexual

1 child abuse and who are qualified to facilitate a broad range of
2 prevention- and intervention-related services and services related
3 to child abuse. For purposes of this definition, "freestanding"
4 means a team not used by a child advocacy center for its
5 accreditation;

6 47. "Near death" means a child is in serious or critical
7 condition, as certified by a physician, as a result of abuse or
8 neglect;

9 48. "Neglect" means:

10 a. the failure or omission to provide any of the
11 following:

- 12 (1) adequate nurturance and affection, food,
13 clothing, shelter, sanitation, hygiene, or
14 appropriate education,
15 (2) medical, dental, or behavioral health care,
16 (3) supervision or appropriate caretakers, or
17 (4) special care made necessary by the physical or
18 mental condition of the child,

19 b. the failure or omission to protect a child from
20 exposure to any of the following:

- 21 (1) the use, possession, sale, or manufacture of
22 illegal drugs,
23 (2) illegal activities, or
24

1 (3) sexual acts or materials that are not age-
2 appropriate, or

3 c. abandonment.

4 Nothing in this paragraph shall be construed to mean a child is
5 abused or neglected for the sole reason the parent, legal guardian
6 or person having custody or control of a child, in good faith,
7 selects and depends upon spiritual means alone through prayer, in
8 accordance with the tenets and practice of a recognized church or
9 religious denomination, for the treatment or cure of disease or
10 remedial care of such child. Nothing contained in this paragraph
11 shall prevent a court from immediately assuming custody of a child,
12 pursuant to the Oklahoma Children's Code, and ordering whatever
13 action may be necessary, including medical treatment, to protect the
14 child's health or welfare;

15 49. "Permanency hearing" means a hearing by the court pursuant
16 to Section 1-4-811 of this title;

17 50. "Permanent custody" means the court-ordered custody of an
18 adjudicated deprived child when a parent-child relationship no
19 longer exists due to termination of parental rights or due to the
20 death of a parent or parents;

21 51. "Permanent guardianship" means a judicially created
22 relationship between a child, a kinship relation of the child, or
23 other adult established pursuant to the provisions of Section 1-4-
24 709 of this title;

1 52. "Person responsible for a child's health, safety, or
2 welfare" includes a parent; a legal guardian; custodian; a foster
3 parent; a person eighteen (18) years of age or older with whom the
4 child's parent cohabitates or any other adult residing in the home
5 of the child; an agent or employee of a public or private
6 residential home, institution, facility or day treatment program as
7 defined in Section 175.20 of Title 10 of the Oklahoma Statutes; or
8 an owner, operator, or employee of a child care facility as defined
9 by Section 402 of Title 10 of the Oklahoma Statutes;

10 53. "Protective custody" means custody of a child taken by a
11 law enforcement officer or designated employee of the court without
12 a court order;

13 54. "Putative father" means an alleged father as that term is
14 defined in Section 7700-102 of Title 10 of the Oklahoma Statutes;

15 55. "Reasonable and prudent parent standard" means the standard
16 characterized by careful and sensible parental decisions that
17 maintain the health, safety, and best interests of a child while at
18 the same time encouraging the emotional and developmental growth of
19 the child. This standard shall be used by the child's caregiver
20 when determining whether to allow a child to participate in
21 extracurricular, enrichment, cultural, and social activities. For
22 purposes of this definition, the term "caregiver" means a foster
23 parent with whom a child in foster care has been placed, a
24 representative of a group home where a child has been placed or a

1 designated official for a residential child care facility where a
2 child in foster care has been placed;

3 56. "Relative" means a grandparent, great-grandparent, brother
4 or sister of whole or half blood, aunt, uncle or any other person
5 related to the child;

6 57. "Residential child care facility" means a twenty-four-hour
7 residential facility where children live together with or are
8 supervised by adults who are not their parents or relatives;

9 58. "Review hearing" means a hearing by the court pursuant to
10 Section 1-4-807 of this title;

11 59. "Risk" means the likelihood that an incident of child abuse
12 or neglect will occur in the future;

13 60. "Safety threat" means the threat of serious harm due to
14 child abuse or neglect occurring in the present or in the very near
15 future and without the intervention of another person, a child would
16 likely or in all probability sustain severe or permanent disability
17 or injury, illness, or death;

18 61. "Safety analysis" means action taken by the Department in
19 response to a report of alleged child abuse or neglect that may
20 include an assessment or investigation based upon an analysis of the
21 information received according to priority guidelines and other
22 criteria adopted by the Department;

23

24

1 62. "Safety evaluation" means evaluation of a child's situation
2 by the Department using a structured, evidence-based tool to
3 determine if the child is subject to a safety threat;

4 63. "Secure facility" means a facility which is designed and
5 operated to ensure that all entrances and exits from the facility
6 are subject to the exclusive control of the staff of the facility,
7 whether or not the juvenile being detained has freedom of movement
8 within the perimeter of the facility, or a facility which relies on
9 locked rooms and buildings, fences, or physical restraint in order
10 to control behavior of its residents;

11 64. "Sibling" means a biologically or legally related brother
12 or sister of a child;

13 65. "Specialized foster care" means foster care provided to a
14 child in a foster home or agency-contracted home which:

- 15 a. has been certified by the Developmental Disabilities
16 Services Division of the Department of Human Services,
- 17 b. is monitored by the Division, and
- 18 c. is funded through the Home- and Community-Based Waiver
19 Services Program administered by the Division;

20 66. "Successful adulthood program" means a program specifically
21 designed to assist a child to enhance those skills and abilities
22 necessary for successful adult living. A successful adulthood
23 program may include, but shall not be limited to, such features as
24 minimal direct staff supervision, and the provision of supportive

1 services to assist children with activities necessary for finding an
2 appropriate place of residence, completing an education or
3 vocational training, obtaining employment, or obtaining other
4 similar services;

5 67. "Temporary custody" means court-ordered custody of an
6 adjudicated deprived child;

7 68. "Therapeutic foster family home" means a foster family home
8 which provides specific treatment services, pursuant to a
9 therapeutic foster care contract, which are designed to remedy
10 social and behavioral problems of a foster child residing in the
11 home;

12 69. "Trafficking in persons" means sex trafficking or severe
13 forms of trafficking in persons as described in Section 7102 of
14 Title 22 of the United States Code:

15 a. "sex trafficking" means the recruitment, harboring,
16 transportation, provision, obtaining, patronizing or
17 soliciting of a person for the purpose of a commercial
18 sex act, and

19 b. "severe forms of trafficking in persons" means:

20 (1) sex trafficking in which a commercial sex act is
21 induced by force, fraud, or coercion, or in which
22 the person induced to perform such act has not
23 attained eighteen (18) years of age, or
24

1 (2) the recruitment, harboring, transportation,
2 provision, obtaining, patronizing or soliciting
3 of a person for labor or services, through the
4 use of force, fraud, or coercion for the purpose
5 of subjection to involuntary servitude, peonage,
6 debt bondage, or slavery;

7 70. "Transitional living program" means a residential program
8 that may be attached to an existing facility or operated solely for
9 the purpose of assisting children to develop the skills and
10 abilities necessary for successful adult living. The program may
11 include, but shall not be limited to, reduced staff supervision,
12 vocational training, educational services, employment and employment
13 training, and other appropriate independent living skills training
14 as a part of the transitional living program; and

15 71. "Voluntary foster care placement" means the temporary
16 placement of a child by the parent, legal guardian or custodian of
17 the child in foster care pursuant to a signed placement agreement
18 between the Department or a child-placing agency and the child's
19 parent, legal guardian or custodian.

20 SECTION 2. AMENDATORY 10A O.S. 2011, Section 1-2-101, as
21 last amended by Section 1, Chapter 62, O.S.L. 2016 (10A O.S. Supp.
22 2017, Section 1-2-101), is amended to read as follows:
23
24

1 Section 1-2-101. A. 1. The Department of Human Services shall
2 establish a statewide centralized hotline for the reporting of child
3 abuse or neglect to the Department.

4 2. The Department shall provide hotline-specific training
5 including, but not limited to, interviewing skills, customer service
6 skills, narrative writing, necessary computer systems, making case
7 determinations, and identifying priority situations.

8 3. The Department is authorized to contract with third parties
9 in order to train hotline workers.

10 4. The Department shall develop a system to track the number of
11 calls received, and of that number:

- 12 a. the number of calls screened out,
- 13 b. the number of referrals assigned,
- 14 c. the number of calls received by persons unwilling to
15 disclose basic personal information including, but not
16 limited to, first and last name, and
- 17 d. the number of calls in which the allegations were
18 later found to be unsubstantiated or ruled out.

19 5. The Department shall electronically record each referral
20 received by the hotline and establish a secure means of retaining
21 the recordings for twelve (12) months. The recordings shall be
22 confidential and subject to disclosure only if a court orders the
23 disclosure of the referral. The Department shall redact any
24

1 information identifying the reporting party unless otherwise ordered
2 by the court.

3 B. 1. Every person having reason to believe that a child under
4 the age of eighteen (18) years is a victim of abuse or neglect shall
5 report the matter promptly to the Department of Human Services.
6 Reports shall be made to the hotline provided for in subsection A of
7 this section. Any allegation of abuse or neglect reported in any
8 manner to a county office shall immediately be referred to the
9 hotline by the Department. Provided, however, that in actions for
10 custody by abandonment, provided for in Section 2-117 of Title 30 of
11 the Oklahoma Statutes, there shall be no reporting requirement.

12 2. Every physician, surgeon, or other health care professional
13 including doctors of medicine, licensed osteopathic physicians,
14 residents and interns, or any other health care professional
15 ~~attending the birth of a child who~~ involved in the prenatal care of
16 expectant mothers or the delivery or care of infants shall promptly
17 report to the Department instances in which an infant tests positive
18 for alcohol or a controlled dangerous substance ~~shall promptly~~
19 ~~report the matter to the Department.~~ This shall include infants who
20 are diagnosed with Neonatal Abstinence Syndrome or Fetal Alcohol
21 Spectrum Disorder.

22 3. No privilege or contract shall relieve any person from the
23 requirement of reporting pursuant to this section.

24

1 4. The reporting obligations under this section are individual,
2 and no employer, supervisor, administrator, governing body or entity
3 shall interfere with the reporting obligations of any employee or
4 other person or in any manner discriminate or retaliate against the
5 employee or other person who in good faith reports suspected child
6 abuse or neglect, or who provides testimony in any proceeding
7 involving child abuse or neglect. Any employer, supervisor,
8 administrator, governing body or entity who discharges,
9 discriminates or retaliates against the employee or other person
10 shall be liable for damages, costs and attorney fees. If a child
11 who is the subject of the report or other child is harmed by the
12 discharge, discrimination or retaliation described in this
13 paragraph, the party harmed may file an action to recover damages,
14 costs and attorney fees.

15 5. Every physician, surgeon, or other health care professional
16 making a report of abuse or neglect as required by this subsection
17 or examining a child to determine the likelihood of abuse or neglect
18 and every hospital or related institution in which the child was
19 examined or treated shall provide, upon request, copies of the
20 results of the examination or copies of the examination on which the
21 report was based and any other clinical notes, x-rays, photographs,
22 and other previous or current records relevant to the case to law
23 enforcement officers conducting a criminal investigation into the
24

1 case and to employees of the Department of Human Services conducting
2 an investigation of alleged abuse or neglect in the case.

3 C. Any person who knowingly and willfully fails to promptly
4 report suspected child abuse or neglect or who interferes with the
5 prompt reporting of suspected child abuse or neglect may be reported
6 to local law enforcement for criminal investigation and, upon
7 conviction thereof, shall be guilty of a misdemeanor. Any person
8 with prolonged knowledge of ongoing child abuse or neglect who
9 knowingly and willfully fails to promptly report such knowledge may
10 be reported to local law enforcement for criminal investigation and,
11 upon conviction thereof, shall be guilty of a felony. For the
12 purposes of this paragraph, "prolonged knowledge" shall mean
13 knowledge of at least six (6) months of child abuse or neglect.

14 D. 1. Any person who knowingly and willfully makes a false
15 report pursuant to the provisions of this section or a report that
16 the person knows lacks factual foundation may be reported to local
17 law enforcement for criminal investigation and, upon conviction
18 thereof, shall be guilty of a misdemeanor.

19 2. If a court determines that an accusation of child abuse or
20 neglect made during a child custody proceeding is false and the
21 person making the accusation knew it to be false at the time the
22 accusation was made, the court may impose a fine, not to exceed Five
23 Thousand Dollars (\$5,000.00) and reasonable attorney fees incurred
24 in recovering the sanctions, against the person making the

1 accusation. The remedy provided by this paragraph is in addition to
2 paragraph 1 of this subsection or to any other remedy provided by
3 law.

4 E. Nothing contained in this section shall be construed to
5 exempt or prohibit any person from reporting any suspected child
6 abuse or neglect pursuant to subsection B of this section.

7 SECTION 3. AMENDATORY 10A O.S. 2011, Section 1-2-102, as
8 last amended by Section 1, Chapter 66, O.S.L. 2016 (10A O.S. Supp.
9 2017, Section 1-2-102), is amended to read as follows:

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

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

- 16 a. provide investigation support and to assist
17 caseworkers with assessment decisions and intervention
18 activities,
- 19 b. serve as consultants to caseworkers in all aspects of
20 their duties, and
- 21 c. designate persons who shall act as liaisons within the
22 Department whose primary functions are to develop
23 relationships with local law enforcement agencies and
24 courts.

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

5 4. The Department shall determine the military status of
6 parents whose children are subject to abuse or neglect. If the
7 Department determines that a parent or guardian is currently serving
8 on active duty in the United States military, the Department shall
9 notify a United States Department of Defense family advocacy program
10 that there is an investigation into the parent or guardian. The
11 Department shall forward a report of its assessment or investigation
12 and findings to the appropriate military law enforcement entity.

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

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

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, either verbally or
9 in writing, to the appropriate local law enforcement agency for the
10 purpose of conducting a possible criminal investigation.

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

14 a. the Department has reason to believe the alleged
15 perpetrator is a parent of another child, not the
16 subject of the criminal investigation, or is otherwise
17 a person responsible for the health, safety, or
18 welfare of another child,
19 b. notice is received from a law enforcement agency that
20 it has determined the alleged perpetrator is a parent
21 of or a person responsible for the health, safety, or
22 welfare of another child not the subject of the
23 criminal investigation, or
24

1 c. the appropriate law enforcement agency requests the
2 Department to assist in the investigation. If funds
3 and personnel are available, as determined by the
4 Director of the Department or a designee, the
5 Department may assist law enforcement in interviewing
6 children alleged to be victims of physical or sexual
7 abuse.

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

11 a. a child in the custody of the Office of Juvenile
12 Affairs, and

13 b. at the time of the alleged abuse or neglect, such
14 child was placed in a secure facility operated by the
15 Office of Juvenile Affairs, as defined by Section 2-1-
16 103 of Title 10A of the Oklahoma Statutes,

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

22 C. 1. Any law enforcement agency receiving a referral as
23 provided in this section shall provide the Department with a copy of
24

1 the report of any investigation resulting from a referral from the
2 Department.

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

12 D. If, upon receipt of a report alleging abuse or neglect, the
13 Department determines that the family has been the subject of a
14 deprived petition, the Department shall conduct a thorough
15 investigation of the allegations and shall not limit the evaluation
16 of the circumstances to an assessment. In addition, if the family
17 has been the subject of three (3) or more referrals, the Department
18 shall conduct a thorough investigation of the allegations and shall
19 not limit the evaluation of the circumstances to an assessment.

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

24

1 F. The Department shall promulgate rules to implement the
2 provisions of this section.

3 SECTION 4. It being immediately necessary for the preservation
4 of the public peace, health or safety, an emergency is hereby
5 declared to exist, by reason whereof this act shall take effect and
6 be in full force from and after its passage and approval.

7
8 COMMITTEE REPORT BY: COMMITTEE ON CHILDREN, YOUTH AND FAMILY
9 SERVICES, dated 02/28/2018 - DO PASS, As Amended and Coauthored.

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24