

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 993 By: Griffin of the Senate
3 and
4 Wright of the House
5
6

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
requirements for certain investigators; establishing
requirements for certain interviews; and providing an
effective date.

12 AMENDMENT NO. 1. Replace the title, enacting clause and entire bill
13 and insert

14 "An Act relating to vulnerable adults; amending 43A
15 O.S. 2011, Section 10-105, which relates to
16 investigation of report; requiring joint
17 investigations under certain circumstances;
18 requiring interviews with certain persons;
19 establishing requirements for certain investigators;
20 establishing requirements for certain interviews;
21 and providing an effective date.

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

23 SECTION 1. AMENDATORY 43A O.S. 2011, Section 10-105, is
24 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

1 provisions of the Protective Services for Vulnerable Adults Act, the
2 Department of Human Services shall make a prompt and thorough
3 investigation. When feasible, law enforcement and the Department
4 shall conduct joint investigations in order to reduce potential
5 trauma to the victim and to eliminate duplicative efforts.

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

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

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

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

24

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

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

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

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

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

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

14 10. Whether the person desires the services;

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

17 12. Other relevant information.

18 C. 1. a. ~~The Department's investigation~~ Investigations
19 conducted pursuant to this section shall include a
20 visit to the home or other place of residence of the
21 person who is the subject of the report, a private
22 interview with such person and any other potential
23 victims, and consultation with persons who have
24 knowledge of or may be witnesses to the circumstances.

1 b. Investigators shall be suitably trained in interview
2 techniques and shall utilize such techniques in
3 interviews with elderly and incapacitated adults and
4 individuals with intellectual disabilities.

5 Interviews shall be conducted at the appropriate
6 developmental age level of the victim. A reasonable
7 effort shall be made to conduct interviews of
8 vulnerable adult victims with an intellectual
9 disability or diminished capacity utilizing
10 appropriate personnel and following protocols and
11 procedures established for interviews with such
12 persons, including the use of forensic interview
13 techniques when appropriate.

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

1 person as provided by this section is denied, the
2 Department may petition the court for an order
3 allowing entry or access.

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

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

11 4. The Department shall make all reasonable attempts to
12 interview the caretaker or other persons alleged to be involved in
13 the abuse, neglect or exploitation in order to enhance service
14 provision and to prevent additional incidents of abuse, neglect or
15 exploitation.

16 D. When a report is received pertaining to a vulnerable adult
17 who has a legal guardian, a copy of the investigative report of the
18 Department shall be filed with the court to which the guardian is
19 accountable.

20 E. 1. In the case of a final investigative report pertaining
21 to a vulnerable adult who is a resident of a nursing facility,
22 residential care facility, assisted living facility or continuum of
23 care facility and who is alleged to be a victim of abuse, verbal
24 abuse, neglect, or exploitation by an employee of such facility, the

1 Department shall forward to the State Department of Health a copy of
2 the Department's final investigative report.

3 2. The Department of Human Services shall be deemed a party
4 pursuant to the Administrative Procedures Act for the investigative
5 reports filed by the Department with the State Department of Health
6 regarding vulnerable adults who are residents of nursing facilities,
7 residential care facilities, assisted living facilities or continuum
8 of care facilities.

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

18 b. Whenever the Department of Human Services believes
19 that the conditions giving rise to a complaint by the
20 Department alleging a serious threat to the health,
21 safety or welfare of a resident of a nursing facility,
22 residential care facility, assisted living facility or
23 continuum of care facility have not been adequately
24 addressed, the Department of Human Services may

1 request the State Department of Health to hold a
2 hearing on the complaint as provided by Section 309 of
3 Title 75 of the Oklahoma Statutes.

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

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

17 SECTION 2. This act shall become effective November 1, 2018."
18
19
20
21
22
23
24

1 Passed the House of Representatives the 26th day of April, 2018.

2
3
4 Presiding Officer of the House of
5 Representatives

6 Passed the Senate the ____ day of _____, 2018.

7
8
9 Presiding Officer of the Senate

1 ENGROSSED SENATE
2 BILL NO. 993

By: Griffin of the Senate

3 and

4 Wright of the House

5
6 An Act relating to vulnerable adults; amending 43A
7 O.S. 2011, Section 10-105, which relates to
8 investigation of report; requiring joint
9 investigations under certain circumstances; requiring
10 interviews with certain persons; establishing
11 requirements for certain investigators; establishing
12 requirements for certain interviews; and providing an
13 effective date.

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

15 SECTION 3. AMENDATORY 43A O.S. 2011, Section 10-105, is
16 amended to read as follows:

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

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

23 1. Notification of local law enforcement agency. Upon the
24 request of a law enforcement agency, the Department shall submit

1 copies of any results or records of an examination on the vulnerable
2 adult who is alleged to have been abused, neglected, or exploited
3 and any other clinical notes, x-rays, photographs, or previous or
4 current records relevant to the case;

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

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

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

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

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

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

24

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

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

6 10. Whether the person desires the services;

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

9 12. Other relevant information.

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

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

17 b. Investigators shall be suitably trained in nationally-
18 recognized forensic interview guidelines and shall
19 utilize such guidelines in interviews with elderly and
20 incapacitated adults and individuals with intellectual
21 disabilities. Interviews shall be conducted at the
22 appropriate developmental age level of the victim. A
23 reasonable effort shall be made to conduct interviews
24 of vulnerable adult victims with an intellectual

1 disability or diminished capacity utilizing
2 appropriate personnel and following protocols and
3 procedures established for forensic interviews.

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

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

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

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

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

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

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

23 a. Within thirty (30) days of receipt of the final
24 investigative report submitted by the Department of

1 Human Services pursuant to this section, the State
2 Department of Health shall provide the Department of
3 Human Services with a written summary of any action
4 taken as a result of the complaint including, but not
5 limited to, results of any inspections, enforcement
6 actions or actions which may be taken by the State
7 Department of Health.

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

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

23 F. When a report is received pertaining to a vulnerable adult
24 residing in a facility other than the home of the vulnerable adult,

1 where persons are employed to provide care and those employees have
2 been named as persons responsible for the abuse, neglect or
3 exploitation, the Department shall forward its final findings,
4 including, but not limited to, any administrative appeal findings to
5 the owner or administrator of the facility to prevent further
6 incidents.

7 SECTION 4. This act shall become effective November 1, 2018.

8 Passed the Senate the 12th day of March, 2018.

9

10

Presiding Officer of the Senate

11

12 Passed the House of Representatives the ____ day of _____,
13 2018.

14

15

Presiding Officer of the House
of Representatives

16

17

18

19

20

21

22

23

24