

1 STATE OF OKLAHOMA

2 1st Session of the 60th Legislature (2025)

3 COMMITTEE SUBSTITUTE  
FOR  
4 SENATE BILL 949

By: Rosino of the Senate

5 and

6 Roe of the House

7

8

9 COMMITTEE SUBSTITUTE

10 An Act relating to the Office of Client Advocacy;  
11 amending 10A O.S. 2021, Section 1-6-103, which  
12 relates to the Oklahoma Children's Code; authorizing  
13 the Office to inspect certain records; amending 10A  
14 O.S. 2021, Section 1-9-112, as amended by Section 4,  
15 Chapter 339, O.S.L. 2024 (10A O.S. Supp. 2024,  
16 Section 1-9-112), which relates to the Office of  
17 Client Advocacy; specifying certain duty of the  
18 Advocate General; amending 30 O.S. 2021, Section 1-  
19 122, which relates to guardian and ward; authorizing  
20 disclosure of certain information to the State  
21 Department of Health; amending 43A O.S. 2021, Section  
22 10-103, which relates to definitions used in the  
23 Protective Services for Vulnerable Adults Act; adding  
24 and modifying definitions; amending 43A O.S. 2021,  
Section 10-104, as amended by Section 31, Chapter  
475, O.S.L. 2019, which relates to reports of abuse,  
neglect, or exploitation; requiring certain  
referrals; amending 43A O.S. 2021, Sections 10-105,  
10-105.1, 10-106, 10-108, 10-110, and 10-111, which  
relate to protective services for vulnerable adults;  
updating statutory language; clarifying applicability  
of provisions relating to investigations; directing  
the Office to establish certain system; amending 56  
O.S. 2021, Section 1025.3, which relates to the  
community services worker registry; transferring  
certain duties to the Office of Client Advocacy;  
requiring the Office to promptly report investigative  
findings to the Department of Human Services;

1           amending 63 O.S. 2021, Section 1-106, as amended by  
2           Section 1, Chapter 85, O.S.L. 2022 (63 O.S. Supp.  
3           2024, Section 1-106), which relates to the State  
4           Commissioner of Health; broadening certain power and  
5           duty; updating statutory language; updating statutory  
6           references; and declaring an emergency.

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

7           SECTION 1.       AMENDATORY       10A O.S. 2021, Section 1-6-103, is  
8           amended to read as follows:

9           Section 1-6-103. A. Juvenile court records and Department of  
10          Human Services agency records pertaining to a child may be  
11          inspected, and their contents shall be disclosed, without a court  
12          order to the following persons upon showing of proper credentials  
13          and pursuant to their lawful duties:

14           1. The court having the child currently before it in any  
15          proceeding pursuant to this title, any district court or tribal  
16          court to which such proceedings may be transferred, employees and  
17          officers of the court in the performance of their duties, including  
18          but not limited to guardians ad litem appointed by the court, and  
19          court-appointed special advocates;

20           2. A district attorney, United States Attorney, or Attorney  
21          General of this or another state and the employees of such offices  
22          in the course of their official duties pursuant to this title or the  
23          prosecution of crimes against children, or upon their request in  
24          their official capacity as advisor in a grand jury proceeding;

3. The attorney representing a child who is the subject of a proceeding pursuant to the provisions of this title or other proceeding where child custody or visitation is at issue;

4. Employees of juvenile bureaus in the course of their official duties pursuant to this title, and employees of the Department of Human Services in the course of their official duties;

5. Employees of a law enforcement agency of this or another state or military enclave and employees of a child protective service of another state or military enclave in the course of their official duties pertaining to investigations of a report of known or suspected child abuse or neglect or crimes against children or for the purpose of determining whether to place a child in protective custody;

6. The Oklahoma Commission on Children and Youth as provided by Sections 601.2 and 601.6 of Title 10 of the Oklahoma Statutes;

## 7. The Office of Juvenile Affairs;

8. A federally recognized Indian tribe in which the child who is the subject of the record is a member or is eligible to become a member of the tribe and is the biological child of a member of an Indian tribe pursuant to the provisions of the Federal Indian Child Welfare Act and the Oklahoma Indian Child Welfare Act; provided such Indian tribe, in the course of its official duties, is:

- a. investigating a report of known or suspected child abuse or neglect or crimes against children or for the

purpose of determining whether to place a child in protective custody,

- b. providing services to or for the benefit of a child including, but not limited to, protective, emergency, social and medical services, or
  - c. the tribe, the tribal court or the tribal child welfare program has asserted jurisdiction or intervened in any case in which the child is the subject of the proceedings or is a party to the proceedings pursuant to the authority provided in the Oklahoma Indian Child Welfare Act.

The records that are to be provided to Indian tribes under this subsection shall include all case records, reports, and documents as defined in Section 1-6-101 of this title;

9. The Governor or to any person the Governor designates, in writing;

10. Any federal official of the United States Department of Health and Human Services;

11. Any member of the Legislature approved in writing by the Speaker of the House of Representatives or the President Pro Tempore of the Senate;

12. A foster parent, with regard to records concerning the social, medical, psychological, or educational needs of a child

1 currently placed with that foster parent or of a child being  
2 considered for placement with that foster parent;

3       13. An employee of any state or federal corrections or law  
4 enforcement agency in the performance of the official duties of the  
5 employee concerning presentence investigations or supervision of a  
6 parent of an alleged or adjudicated deprived child, or the legal  
7 guardian, custodian, or any other adult member of the child's home  
8 who is responsible for the health, safety, or welfare of the child;

9       14. An employee of a state agency of this or another state in  
10 the performance of the official duties of the employee concerning  
11 the establishment of paternity or the establishment or enforcement  
12 of a child support order or other entitlement for the benefit of a  
13 child; provided, disclosure shall be limited to information directly  
14 related to the purpose of such disclosure;

15       15. Any member of a city-county Health Department Fetal Infant  
16 Mortality Review (FIMR) in the performance of the official duties of  
17 the member concerning investigations of fetal and infant  
18 mortalities; provided, disclosure shall be limited to information  
19 directly related to the purpose of such disclosure;

20       16. Any designated federal authorities at the federal military  
21 installation where a service member is assigned, when the child is a  
22 member of an active duty military family, as provided by paragraph 4  
23 of subsection A of Section 1-2-102 of this title; **and**

1       17. Any member of the Child Welfare Review Committee for the  
2 Death and Near Death of Children With Disabilities as established by  
3 Section 1-10-103 of this title; and

4       18. The Office of Client Advocacy within the State Department  
5       of Health.

6       B. In addition to the persons listed in subsection A of this  
7 section, juvenile court records may be inspected, and their contents  
8 shall be disclosed, without a court order to the following persons  
9 upon showing of proper credentials and pursuant to their lawful  
10 duties:

11       1. Employees of court-appointed special advocate programs, as  
12 defined in Section 1-1-105 of this title, in the course of their  
13 official duties pertaining to recruiting, screening, training,  
14 assigning cases, supervising, and supporting volunteers in their  
15 roles as guardian ad litem pursuant to Section 1-4-306 of this  
16 title;

17       2. Members of postadjudication review boards established  
18 pursuant to the provisions of Section 1116.2 of Title 10 of the  
19 Oklahoma Statutes, the Child Death Review Board, and  
20 multidisciplinary personnel. In addition to juvenile court records,  
21 members of such postadjudication review boards may inspect, without  
22 a court order, information that includes, but is not limited to:

23           a. psychological and medical records,

- b. placement history and information, including the names and addresses of foster parents,
- c. family assessments,
- d. treatment or service plans, and
- e. school records;

6       3. The Department of Human Services or other public or private  
7 agency or individual having court-ordered custody or physical  
8 custody pursuant to Department placement of the child, or conducting  
9 a child abuse or neglect investigation of the child who is the  
10 subject of the record. In addition to juvenile court records,  
11 employees of the Department may inspect, without a court order and  
12 upon a showing of proper credentials and pursuant to their lawful  
13 duties, information that includes, but is not limited to:

- a. psychological and medical records, and
- b. nondirectory education records;

16       4. The child who is the subject of the record and the parents,  
17 legal guardian, custodian, or foster parent of such child; and

18       5. A person authorized by the court to conduct bona fide  
19 research, provided such research may not publish the names or  
20 identities of parents, children, or other persons contained in the  
21 records.

22 C. In addition to the persons and entities named in subsection  
23 A of this section, Department of Human Services agency records may  
24 be inspected, and their contents shall be disclosed, without a court

1 order to the following persons upon showing of proper credentials  
2 and pursuant to their lawful duties:

3       1. Postadjudicatory review boards, court-appointed special  
4 advocates, and members of the Child Death Review Board;

5       2. Any district court which has ordered a home study by the  
6 Department in an action for divorce, annulment, custody of a child,  
7 or appointment of a legal guardian of a child, or any subsequent  
8 proceeding in such actions; provided, however, the Department may  
9 limit disclosure in the home study to summaries or to information  
10 directly related to the purpose of the disclosure;

11       3. Members of multidisciplinary teams or multidisciplinary  
12 personnel designated by the Department, investigating a report of  
13 known or suspected child abuse or neglect or providing services to a  
14 child or family which is the subject of the report;

15       4. A physician who has before him or her a child whom the  
16 physician reasonably suspects may be abused or neglected or any  
17 health care or mental health professionals involved in the  
18 evaluation or treatment of the child or the parents, legal guardian,  
19 foster parent, custodian, or other family members of the child;

20       5. Any public or private agency or person authorized by the  
21 Department to diagnose, or provide care, treatment, supervision, or  
22 other services to a child who is the subject of a report or record  
23 of child abuse or neglect; provided, the Department may limit such

1 disclosure to summaries or to information directly necessary for the  
2 purpose of such disclosure;

3       6. Any person or agency for research purposes, if all of the  
4 following conditions are met:

5           a. the person or agency conducting the research is  
6                   employed by the State of Oklahoma or is under contract  
7                   with this state and is authorized by the Department to  
8                   conduct the research, and

9           b. the person or agency conducting the research ensures  
10                   that all documents containing identifying information  
11                   are maintained in secure locations and access to the  
12                   documents by unauthorized persons is prohibited; that  
13                   no identifying information is included in documents  
14                   generated from the research conducted; and that all  
15                   identifying information is deleted from documents used  
16                   in the research when the research is completed;

17       7. The Oklahoma Health Care Authority; and

18       8. A medical examiner when such person is determining the cause  
19           of death of a child.

20       D. In accordance with the rules promulgated for such purpose  
21           pursuant to Section 620.6 of Title 10 of the Oklahoma Statutes,  
22           records listed in subsection A of Section 1-6-102 of this title may  
23           be inspected and their contents disclosed without a court order to  
24           participating agencies.

1       E. The court may disclose to an employee of an out-of-state  
2 entity, licensed to perform adoption home studies in that state,  
3 whether the prospective adoptive parent has had parental rights to a  
4 child terminated in Oklahoma or whether the prospective adoptive  
5 parent has relinquished parental rights to a child in Oklahoma.

6       F. Nothing in this section shall be construed as prohibiting  
7 the Department from disclosing such confidential information as may  
8 be necessary to secure appropriate care, treatment, protection or  
9 supervision of a child alleged to be abused or neglected.

10      SECTION 2.       AMENDATORY       10A O.S. 2021, Section 1-9-112, as  
11 amended by Section 4, Chapter 339, O.S.L. 2024 (10A O.S. Supp. 2024,  
12 Section 1-9-112), is amended to read as follows:

13      Section 1-9-112. A. 1. The State Commissioner of Health shall  
14 establish the Office of Client Advocacy within the State Department  
15 of Health and shall employ personnel necessary to carry out the  
16 provisions of this section.

17      2. The head of the Office of Client Advocacy shall be the  
18 Advocate General. The duties and responsibilities of the Advocate  
19 General are to:

- 20           a. supervise personnel assigned to the Office of Client  
21           Advocacy,
- 22           b. monitor and review grievance procedures and hearings,
- 23           c. establish and maintain a fair, simple, and expeditious  
24           system for resolution of grievances of:

- (1) all children in the custody of the Department of Human Services regarding:
    - (a) the substance or application of any written or unwritten policy or rule of the Department or agent of the Department, or
    - (b) any decision or action by an employee or agent of the Department, or of any child in the custody of the Department,
  - (2) foster parents relating to the provision of foster care services pursuant to this section and Section 1-9-117 of this title, and
  - (3) all persons receiving services from the Developmental Disabilities Services Division of the Department of Human Services,  
investigate allegations of abuse, neglect, sexual abuse, and sexual exploitation, as those terms are defined in the Oklahoma Children's Code, by a person responsible for a child, regardless of custody:
  - (1) residing outside his or her own home other than children in foster care or children in the custody of the Office of Juvenile Affairs and placed in an Office of Juvenile Affairs secure facility,

- (2) in a day treatment program as defined in Section 175.20 of Title 10 of the Oklahoma Statutes, and submit a report of the results of the investigation to the appropriate district attorney and to the State Department of Health,
  - (3) receiving services from a community services worker as that term is defined in Section 1025.1 of Title 56 of the Oklahoma Statutes, and
  - (4) residing in a state institution listed in Section 1406 of Title 10 of the Oklahoma Statutes, establish a system for investigating allegations of misconduct, by a person responsible for a child, not rising to the level of abuse, neglect, sexual abuse, or sexual exploitation with regard to any child or resident listed in subparagraph d of this paragraph, coordinate any hearings or meetings of departmental administrative review committees conducted as a result of unresolved grievances or as a result of investigations, make recommendations to the State Commissioner of Health, who shall then make recommendations to the Director of Human Services, and provide regular or special reports regarding grievance procedures, hearings and investigations to the Director, the

- Commissioner, the Office of Juvenile System Oversight,  
and other appropriate persons as necessary,
- h. forward to the Office of Juvenile System Oversight,  
for the information of the Director of that office, a  
copy of the final report of any grievance which is not  
resolved in the favor of the complainant,
- i. perform the duties imposed on the Office of Client  
Advocacy under the Protective Services for Vulnerable  
Adults Act when the Office is the appropriate state  
entity as defined in Section 10-103 of Title 43A of  
the Oklahoma Statutes,
- j. perform such other duties as required by the State  
Commissioner of Health, and
- ↳ k. develop policies and procedures as necessary to  
implement the duties and responsibilities assigned to  
the Office of Client Advocacy.

B. The Office of Client Advocacy shall make a complete written report of its investigations. The investigation report, together with its recommendations, shall be submitted to the appropriate district attorney's office.

C. 1. Except as otherwise provided by the Oklahoma Children's Code, the reports required by Section 1-2-101 of this title or any other information acquired pursuant to the Oklahoma Children's Code

1 shall be confidential and may be disclosed only as provided in  
2 Section 1-2-108 of this title and the Oklahoma Children's Code.

3       2. Except as otherwise provided by the Oklahoma Children's  
4 Code, any violation of the confidentiality requirements of the  
5 Oklahoma Children's Code shall, upon conviction, be a misdemeanor  
6 punishable by up to six (6) months in jail, by a fine of Five  
7 Hundred Dollars (\$500.00), or by both such fine and imprisonment.

8       3. Any records or information disclosed as provided by this  
9 subsection shall remain confidential. The use of any information  
10 shall be limited to the purpose for which disclosure is authorized.  
11 Rules promulgated by the State Commissioner of Health shall provide  
12 for disclosure of relevant information concerning Office of Client  
13 Advocacy investigations to persons or entities acting in an official  
14 capacity with regard to the subject of the investigation.

15       4. Nothing in this section shall be construed as prohibiting  
16 the Office of Client Advocacy or the Department of Human Services  
17 from disclosing such confidential information as may be necessary to  
18 secure appropriate care, treatment, or protection of a child alleged  
19 to be abused or neglected.

20       D. 1. The Office of Client Advocacy shall investigate any  
21 complaint received by the Office of Juvenile System Oversight  
22 alleging that an employee of the Department of Human Services or a  
23 child-placing agency has threatened a foster parent with removal of  
24 a child from the foster parent, harassed a foster parent, or refused

1 to place a child in a licensed or certified foster home, or  
2 disrupted a child placement as retaliation or discrimination towards  
3 a foster parent who has:

- 4 a. filed a grievance pursuant to Section 1-9-120 of this  
5 title,
- 6 b. provided information to any state official or  
7 Department of Human Services employee, or
- 8 c. testified, assisted, or otherwise participated in an  
9 investigation, proceeding, or hearing against the  
10 Department of Human Services or child-placing agency.

11 2. The provisions of this subsection shall not apply to any  
12 complaint by a foster parent regarding the result of a criminal,  
13 administrative, or civil proceeding for a violation of any law,  
14 rule, or contract provision by that foster parent, or the action  
15 taken by the Department of Human Services or a child-placement  
16 agency in conformity with the result of any such proceeding.

17 3. The Office of Client Advocacy shall at all times be granted  
18 access to any foster home or any child-placing agency which is  
19 certified, authorized, or funded by the Department of Human  
20 Services.

21 SECTION 3. AMENDATORY 30 O.S. 2021, Section 1-122, is  
22 amended to read as follows:

23 Section 1-122. A. Confidential information filed with or  
24 submitted to the court in conjunction with any proceeding pursuant

1 to the Oklahoma Guardianship and Conservatorship Act, shall not  
2 constitute a public record and shall be sealed by the court. Access  
3 to confidential information shall be strictly controlled. Except  
4 upon court order, no confidential information shall be disclosed to  
5 persons other than:

6       1. The subject of the proceeding and the subject's attorney;

7       2. The guardian ad litem;

8       3. If the subject of the confidential information is a ward,  
9 the guardian or conservator of such ward;

10      4. If the subject of the confidential information is the  
11 guardian or conservator, the ward and the subject's attorney, and  
12 the attorney of such guardian or conservator;

13      5. Abstractors licensed pursuant to the Oklahoma Abstractors  
14 Law, for the purpose of having access to records regarding minors  
15 and determinations of persons as incapacitated or partially  
16 incapacitated persons pursuant to the Oklahoma Guardianship Act.

17 Abstractors shall maintain the confidentiality of this data, except  
18 for such parts as are relevant to the land title being researched;

19      6. An authorized representative of the United States Department  
20 of Veterans Affairs upon presentation of proper identification; and

21      7. An authorized representative of the Department of Human  
22 Services upon presentation of proper identification; and

23      8. An authorized representative of the State Department of  
24 Health including, but not limited to, an authorized representative

1 | of the Office of Client Advocacy, upon presentation of proper  
2 | identification.

3 |       B. The fact of the existence of a guardianship or  
4 | conservatorship of a person or that person's estate shall not be  
5 | considered confidential information.

6 | SECTION 4.           AMENDATORY           43A O.S. 2021, Section 10-103, is  
7 | amended to read as follows:

8 |       Section 10-103. A. When used in the Protective Services for  
9 | Vulnerable Adults Act:

10 |       1. "Protective services" means services which are necessary to  
11 | aid a vulnerable adult in meeting the essential requirements for  
12 | mental or physical health and safety that the vulnerable adult is  
13 | unable to provide or obtain without assistance. The term  
14 | "protective services" includes but is not limited to services  
15 | provided to or obtained for such person in order to prevent or  
16 | remedy the abuse, neglect, or exploitation of such person;

17 |       2. "Services which are necessary to aid an individual to meet  
18 | essential requirements for mental or physical health and safety"  
19 | include, but shall not be limited to:

- 20 |           a. the identification of vulnerable adults in need of the  
21 |                 services,  
22 |           b. the provision of medical care for physical and mental  
23 |                 health needs,

- 1           c. the provision of social services assistance in  
2                           personal hygiene, food, clothing, and adequately  
3                           heated and ventilated shelter,  
4           d. protection from health and safety hazards,  
5           e. protection from physical mistreatment,  
6           f. guardianship referral,  
7           g. outreach programs, and  
8           h. the transportation necessary to secure any of such  
9                           services.

10          The term shall not include taking the person into physical custody  
11         without the consent of the person except as provided for in Sections  
12         10-107 and 10-108 of this title, and the evaluation, monitoring, and  
13         provision of protective placements;

14          3. "Meet essential requirements for mental or physical health  
15         and safety" means those actions necessary to provide the health  
16         care, food, shelter, clothing, personal hygiene and other care  
17         without which physical injury or illness to the vulnerable adult is  
18         likely to occur;

19          4. "Incapacitated person" means:

20           a. any person eighteen (18) years of age or older:  
21                  (1) who is impaired by reason of mental or physical  
22                           illness or disability, dementia or related  
23                           disease, developmental or intellectual disability  
24                           or other cause, and

(2) whose ability to receive and evaluate information effectively or to make and to communicate responsible decisions is impaired to such an extent that such person lacks the capacity to manage his or her financial resources or to meet essential requirements for his or her mental or physical health or safety without assistance from others, or

b. a person for whom a guardian, limited guardian, or conservator has been appointed pursuant to the Oklahoma Guardianship and Conservatorship Act;

5. "Vulnerable adult" means an individual who is an

13       incapacitated person or who, because of physical or mental  
14       disability, including persons with Alzheimer's disease or other  
15       dementias, incapacity, or other disability, is substantially  
16       impaired in the ability to provide adequately for the care or  
17       custody of himself or herself, or is unable to manage his or her  
18       property and financial affairs effectively, or to meet essential  
19       requirements for mental or physical health or safety, or to protect  
20       himself or herself from abuse, verbal abuse, neglect, or  
21       exploitation without assistance from others;

6. "Caretaker" means a person who has:

- 1           a. the responsibility for the care of a vulnerable adult  
2                          or the financial management of the resources of a  
3                          vulnerable adult as a result of a family relationship,  
4           b. assumed the responsibility for the care of a  
5                          vulnerable adult voluntarily, by contract, or as a  
6                          result of the ties of friendship, or  
7           c. been appointed a guardian, limited guardian, or  
8                          conservator pursuant to the Oklahoma Guardianship and  
9                          Conservatorship Act;

10       7. "Department" means, unless the context clearly indicates

11       otherwise, the Department of Human Services;

12       8. "Abuse" means causing or permitting:

- 13           a. the infliction of physical pain, injury, sexual abuse,  
14                          sexual exploitation, unreasonable restraint or  
15                          confinement, mental anguish or personal degradation,  
16                          or  
17           b. the deprivation of nutrition, clothing, shelter,  
18                          health care, or other care or services without which  
19                          serious physical or mental injury is likely to occur  
20                          to a vulnerable adult by a caretaker or other person  
21                          providing services to a vulnerable adult;

22       9. "Exploitation" or "exploit" means an unjust or improper use

23       of the resources of a vulnerable adult for the profit or advantage,  
24       pecuniary or otherwise, of a person other than the vulnerable adult

1 through the use of undue influence, coercion, harassment, duress,  
2 deception, false representation or false pretense;

3        10. "Financial neglect" means repeated instances by a  
4 caretaker, or other person, who has assumed the role of financial  
5 management, of failure to use the resources available to restore or  
6 maintain the health and physical well-being of a vulnerable adult,  
7 including, but not limited to:

- a. squandering or negligently mismanaging the money, property, or accounts of a vulnerable adult,
  - b. refusing to pay for necessities or utilities in a timely manner, or
  - c. providing substandard care to a vulnerable adult despite the availability of adequate financial resources;

11. "Neglect" means:

- a. the failure to provide protection for a vulnerable adult who is unable to protect his or her own interest,
  - b. the failure to provide a vulnerable adult with adequate shelter, nutrition, health care, or clothing, or
  - c. negligent acts or omissions that result in harm or the unreasonable risk of harm to a vulnerable adult

1                   through the action, inaction, or lack of supervision  
2                   by a caretaker providing direct services;

3       12. "Personal degradation" means a willful act by a caretaker  
4       intended to shame, degrade, humiliate or otherwise harm the personal  
5       dignity of a vulnerable adult, or where the caretaker knew or  
6       reasonably should have known the act would cause shame, degradation,  
7       humiliation or harm to the personal dignity of a reasonable person.  
8       Personal degradation includes the taking, transmitting, or display  
9       of an electronic image of a vulnerable adult by a caretaker, where  
10      the caretaker's actions constitute a willful act intended to shame,  
11      degrade, humiliate or otherwise harm the personal dignity of the  
12      dependent adult, or where the caretaker knew or reasonably should  
13      have known the act would cause shame, degradation, humiliation or  
14      harm to the personal dignity of a reasonable person. Personal  
15      degradation does not include:

16           a. the taking, transmission or display of an electronic  
17           image of a vulnerable adult for the purpose of  
18           reporting vulnerable adult abuse to law enforcement,  
19           the Department of Human Services or other regulatory  
20           agency that oversees caretakers or enforces abuse or  
21           neglect laws or rules,

22           b. the taking, transmission or display of an electronic  
23           image of a vulnerable adult for the purpose of  
24           treatment or diagnosis, or

1                   c. the taking, transmission or display of an electronic  
2                   image of a vulnerable adult as part of an ongoing  
3                   investigation;

4       13. "Sexual abuse" means:

- 5                   a. oral, anal, or vaginal penetration of a vulnerable  
6                   adult by or through the union with the sexual organ of  
7                   a caretaker or other person providing services to the  
8                   vulnerable adult, or the anal or vaginal penetration  
9                   of a vulnerable adult by a caretaker or other person  
10                  providing services to the vulnerable adult with any  
11                  other object, ~~or~~  
12                  b. for the purpose of sexual gratification, the touching,  
13                  feeling or observation of the body or private parts of  
14                  a vulnerable adult by a caretaker or other person  
15                  providing services to the vulnerable adult, or  
16                  c. indecent exposure by a caretaker or other person  
17                  providing services to the vulnerable adult;

18       14. "Indecent exposure" means forcing or requiring a vulnerable  
19                  adult to:

- 20                  a. look upon the body or private parts of another person  
21                  or upon sexual acts performed in the presence of the  
22                  vulnerable adult, or  
23                  b. touch or feel the body or private parts of another;

15. "Self-neglect" means the action or inaction of a vulnerable adult which causes that person to fail to meet the essential requirements for physical or mental health and safety due to the vulnerable adult's lack of awareness, incompetence or incapacity;

16. "Sexual exploitation" includes, but is not limited to, a caretaker's causing, allowing, permitting or encouraging a vulnerable adult to engage in prostitution or in the lewd, obscene, or pornographic photographing, filming or depiction of the vulnerable adult as those acts are defined by state law; and

17. "Verbal abuse" means the use of words, sounds, or other communication including, but not limited to, gestures, actions or behaviors, by a caretaker or other person providing services to a vulnerable adult that are likely to cause a reasonable person to experience humiliation, intimidation, fear, shame or degradation;

and

18. "Appropriate state entity" means:

a. the Office of Client Advocacy within the State  
Department of Health, if the allegation concerns a  
vulnerable adult who is:

(1) a certified member of the plaintiff class in  
Homeward Bound, Inc., et al. v. The Hissom  
Memorial Center, et al., Case Number 85-C-437-E,  
United States District Court for the Northern  
District of Oklahoma,

- 1                             (2) a resident of the Robert M. Greer Center or  
2                             successor facility, or  
3                             (3) receiving services from a community services  
4                             provider, community services worker, Medicaid  
5                             personal care services provider, or Medicaid  
6                             personal care assistant, as those terms are  
7                             defined in Section 1025.1 of Title 56 of the  
8                             Oklahoma Statutes, when such provider or worker  
9                             is the alleged perpetrator, or  
10                            b. the Department of Human Services, if the allegation  
11                             concerns a vulnerable adult who does not meet the  
12                             description of subparagraph a of this paragraph.

13                           B. Nothing in this section shall be construed to mean a  
14                             vulnerable adult is abused or neglected for the sole reason the  
15                             vulnerable adult, in good faith, selects and depends upon spiritual  
16                             means alone through prayer, in accordance with the practices of a  
17                             recognized religious method of healing, for the treatment or cure of  
18                             disease or remedial care, or a caretaker or other person  
19                             responsible, in good faith, is furnishing such vulnerable adult  
20                             spiritual means alone through prayer, in accordance with the tenets  
21                             and practices of a recognized church or religious denomination, for  
22                             the treatment or cure of disease or remedial care in accordance with  
23                             the practices of or express consent of the vulnerable adult.

1 SECTION 5. AMENDATORY 43A O.S. 2021, Section 10-104, as  
2 amended by Section 31, Chapter 475, O.S.L. 2019, is amended to read  
3 as follows:

4 Section 10-104. A. Any person having reasonable cause to  
5 believe that a vulnerable adult is suffering from abuse, neglect, or  
6 exploitation shall make a report as soon as the person is aware of  
7 the situation to:

8 1. The Department of Human Services; ~~or~~  
9 2. The Office of Client Advocacy within the State Department of  
10 Health; or

11 3. The municipal police department or sheriff's office in the  
12 county in which the suspected abuse, neglect, or exploitation  
13 occurred.

14 B. Persons required to make reports pursuant to this section  
15 shall include, but not be limited to:

16 1. Physicians;  
17 2. Operators of emergency response vehicles and other medical  
18 professionals;  
19 3. Social workers and mental health professionals;  
20 4. Law enforcement officials;  
21 5. Staff of domestic violence programs;  
22 6. Long-term care facility personnel, including staff of  
23 nursing facilities, intermediate care facilities for individuals

1 with intellectual disabilities (ICFs/IID), assisted living  
2 facilities, and residential care facilities;

3       7. Other health care professionals;

4       8. Persons entering into transactions with a caretaker or other  
5 person who has assumed the role of financial management for a  
6 vulnerable adult;

7       9. Staff of residential care facilities, group homes, or  
8 employment settings for individuals with intellectual disabilities;

9       10. Job coaches, community service workers, and personal care  
10 assistants; and

11       11. Municipal employees.

12       C. 1. If the report is not made in writing in the first  
13 instance, as soon as possible after it is initially made by  
14 telephone or otherwise, the report shall be reduced to writing by  
15 the Department of Human Services, in accordance with rules  
16 promulgated by the Director of Human Services, by the Office of  
17 Client Advocacy in accordance with rules promulgated by the State  
18 Commissioner of Health, or by the local municipal police or  
19 sheriff's department, whichever entity received the initial report.

20 The report shall contain the following information:

21       a. the name and address of the vulnerable adult,

22       b. the name and address of the caretaker, guardian, or  
23                  person having power of attorney over the vulnerable  
24                  adult's resources if any,

- c. a description of the current location of the vulnerable adult,
- d. a description of the current condition of the vulnerable adult, and
- e. a description of the situation which may constitute abuse, neglect or exploitation of the vulnerable adult.

8       2. If federal law specifically prohibits the disclosure of any  
9 of the information required by this subsection, that information may  
10 be excluded from the report.

11       D. 1. If the initial report is made to the local municipal  
12 police department or sheriff's office, such police department or  
13 sheriff's office shall notify, as soon as possible, the Department  
14 of Human Services and the Office of Client Advocacy of its  
15 investigation.

16       2. If, at any point after the initial report, the Department of  
17       Human Services or the Office of Client Advocacy discovers that it is  
18       not the appropriate state entity for the investigation as defined in  
19       Section 10-103 of this title, it shall refer the matter to and share  
20       the initial report with the appropriate state entity.

21       E. Any person who knowingly and willfully fails to promptly  
22 report any abuse, neglect, or exploitation as required by the  
23 provisions of subsection A of this section, upon conviction, shall  
24 be guilty of a misdemeanor punishable by imprisonment in the county

1     jail for a term not exceeding one (1) year or by a fine of not more  
2     than One Thousand Dollars (\$1,000.00), or by both such fine and  
3     imprisonment.

4                 F. 1. Any person participating in good faith and exercising  
5     due care in the making of a report pursuant to the provisions of  
6     this section shall have immunity from any civil or criminal  
7     liability that might otherwise be incurred or imposed. Any such  
8     participant shall have the same immunity with respect to  
9     participation in any judicial proceeding resulting from the report.

10                2. The same immunity from any civil or criminal liability shall  
11     also be extended to previous employers of a person employed to be  
12     responsible for the care of a vulnerable adult, who in good faith  
13     report to new employers or prospective employers of such caretaker  
14     any misconduct of the caretaker including, but not limited to,  
15     abuse, neglect or exploitation of a vulnerable adult, whether  
16     confirmed or not.

17                G. Any person who willfully or recklessly makes a false report  
18     shall be civilly liable for any actual damages suffered by the  
19     person being reported and for any punitive damages set by the court  
20     or jury which may be allowed in the discretion of the court or jury.

21                H. 1. Every physician or other health care professional making  
22     a report concerning the abuse, neglect or exploitation of a  
23     vulnerable adult, as required by this section, or examining a  
24     vulnerable adult to determine the likelihood of abuse, neglect or

1 exploitation, and every hospital in which a vulnerable adult is  
2 examined or treated for abuse, neglect or exploitation shall  
3 disclose necessary health information related to the case and  
4 provide, upon request by either the Department of Human Services,  
5 the Office of Client Advocacy, or the local municipal police or  
6 sheriff's department receiving the initial report, copies of the  
7 results or the records of the examination on which the report was  
8 based, and any other clinical notes, x-rays or photographs and other  
9 health information which is related to the case if:

- 10           a. the vulnerable adult agrees to the disclosure of the  
11                 health information, or
- 12           b. the individual is unable to agree to the disclosure of  
13                 health information because of incapacity~~r~~, and
  - 14                 (1) the requesting party represents that the health  
15                     information for which disclosure is sought is not  
16                     intended to be used against the vulnerable adult  
17                     in a criminal prosecution but to provide  
18                     protective services pursuant to the Protective  
19                     Services for Vulnerable Adults Act,
  - 20                 (2) the disclosure of the information is necessary to  
21                     conduct an investigation into the alleged abuse,  
22                     neglect or exploitation of the vulnerable adult  
23                     subject to the investigation, and

(3) immediate enforcement activity that depends upon the disclosure:

(a) is necessary to protect the health, safety and welfare of the vulnerable adult because of incapacity, or

(b) would be materially and adversely affected by waiting until the vulnerable adult is able to agree to the disclosure.

9       2. If federal law specifically prohibits the disclosure of any  
10 of the information required by this subsection, that information may  
11 be excluded from the disclosed health information.

12       I. After investigating the report, either the county office of  
13 the ~~Department of Human Services~~ appropriate state entity or the  
14 municipal police department or sheriff's office, as appropriate,  
15 shall forward its findings to the office of the district attorney in  
16 the county in which the suspected abuse, neglect, or exploitation  
17 occurred. Unsubstantiated findings shall be labeled as such before  
18 transmission to the office of the district attorney. Findings of  
19 self-neglect shall not be forwarded to the office of the district  
20 attorney unless similar findings were reported within six (6) months  
21 prior.

22 J. Any state or county medical examiner or physician who has  
23 reasonable cause to suspect that the death of any vulnerable adult  
24 may be the result of abuse or neglect as defined by Section 10-103

1 of this title shall make a report to the district attorney or other  
2 law enforcement official of the county in which the death occurred.  
3 The report shall include the name of the person making the report,  
4 the name of the deceased person, the facts or other evidence  
5 supporting such suspicion, and any other health information that may  
6 be of assistance to the district attorney in conducting an  
7 investigation into the matter.

8 K. No employer shall terminate the employment, prevent or  
9 impair the practice or occupation of or impose any other sanction on  
10 any employee solely for the reason that the employee made or caused  
11 to be made a report or cooperated with an investigation pursuant to  
12 the Protective Services for Vulnerable Adults Act. A court, in  
13 addition to other damages and remedies, may assess reasonable  
14 attorney fees against an employer who has been found to have  
15 violated the provisions of this subsection.

16 SECTION 6. AMENDATORY 43A O.S. 2021, 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~~ appropriate state entity shall make a  
22 prompt and thorough investigation. When feasible, law enforcement  
23 and the ~~Department~~ appropriate state entity shall conduct joint  
24

1 investigations in order to reduce potential trauma to the victim and  
2 to eliminate duplicative efforts.

3       B. The investigation shall include:

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

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

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

22           4. Diagnostic evaluation to determine whether the person needs  
23 protective services;

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

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

5       7. Whether services are available from the Department of Human  
6 Services or in the community and how the services can be provided;

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

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

12      10. Whether the person desires the services;

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

15      12. Other relevant information.

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

23      b. Investigators shall be suitably trained in interview  
24           techniques and shall utilize such techniques in

1           interviews with elderly and incapacitated adults and  
2           individuals with intellectual disabilities.

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

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

1                   Department appropriate state entity may petition the  
2                   court for an order allowing entry or access.

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

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

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

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

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

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

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

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

20            b. Whenever the ~~Department of Human Services appropriate~~  
21              state entity believes that the conditions giving rise  
22              to a complaint by ~~the Department such entity~~ alleging  
23              a serious threat to the health, safety or welfare of a  
24              resident of a nursing facility, residential care

1                   facility, assisted living facility or continuum of  
2                   care facility have not been adequately addressed, ~~the~~  
3                   ~~Department of Human Services~~ such entity may request  
4                   the State Department of Health to hold a hearing on  
5                   the complaint as provided by Section 309 of Title 75  
6                   of the Oklahoma Statutes.

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

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

20                 G. The Office of Client Advocacy shall establish a system for  
21                 investigating allegations of misconduct by a person responsible for  
22                 a vulnerable adult not rising to the level of abuse, neglect, or  
23                 exploitation in cases where the Office is the appropriate state  
24                 entity as defined in Section 10-103 of this title.

1 SECTION 7. AMENDATORY 43A O.S. 2021, Section 10-105.1,

2 is amended to read as follows:

3 Section 10-105.1. A. As soon as possible after initiating an  
4 investigation of a referral regarding a vulnerable adult, the  
5 ~~Department~~ appropriate state entity shall provide to the caretaker  
6 of the alleged victim, the legal guardian, and next of kin of the  
7 vulnerable adult notification including a brief oral summary and  
8 easily understood written description of the investigation process,  
9 whether or not the caretaker, guardian or next of kin is alleged to  
10 be the perpetrator of the abuse, neglect or exploitation of the  
11 vulnerable adult.

12 B. If the vulnerable adult retains capacity to consent to  
13 voluntary services, and does not wish for a caretaker or next of kin  
14 to receive notification of the investigation, the ~~Department~~  
15 appropriate state entity shall abide by wishes of the vulnerable  
16 adult.

17 C. The notification specified by subsection A of this section  
18 shall include:

19 1. A statement that the investigation is being undertaken by  
20 the ~~Department of Human Services~~ appropriate state entity pursuant  
21 to the requirements of the Protective Services for Vulnerable Adults  
22 Act in response to a report of abuse, neglect or exploitation and  
23 shall include the name and office telephone number of the ~~Department~~

1 | appropriate state entity's representative with primary  
2 | responsibility for the investigation;

3 |       2. A statement that the identity of the person who reported the  
4 | incident of abuse is confidential and may not even be known to the  
5 | Department since the report could have been made anonymously;

6 |       3. A statement that the investigation is required by law to be  
7 | conducted in order to enable the ~~Department of Human Services~~  
8 | appropriate state entity to identify incidents of abuse, neglect or  
9 | exploitation in order to provide protective or preventive social  
10 | services to vulnerable adults who are in need of such services;

11 |       4. An explanation of the procedures of the ~~Department of Human~~  
12 | ~~Services~~ appropriate state entity for conducting an investigation of  
13 | alleged abuse, neglect or exploitation, including:

14 |           a. a statement that the alleged victim of abuse, neglect  
15 |                   or exploitation is the ~~Department's~~ appropriate state  
16 |                   entity's primary client in such an investigation,

17 |           b. a statement that findings of all investigations are  
18 |                   provided to the office of the district attorney, and

19 |           c. a statement that law enforcement may conduct a  
20 |                   separate investigation to determine whether a criminal  
21 |                   violation occurred;

22 |       5. An explanation of services which may be provided as a result  
23 | of the ~~Department's~~ appropriate state entity's investigation,  
24 | including:

- 1           a. a statement that the caretaker, legal guardian and  
2           next of kin will be involved in the process of  
3           developing a plan of services for the vulnerable adult  
4           insofar as that involvement is consistent with the  
5           best interests of the vulnerable adult,
- 6           b. a statement that voluntary services may be provided or  
7           arranged for based on the adult client's needs,  
8           desires and acceptance, and
- 9           c. a statement that involuntary services may be provided  
10          through the judicial system when immediate services  
11          are needed to preserve the life of the vulnerable  
12          adult and physical health or preserve the resources of  
13          the vulnerable adult which may later be needed to  
14          provide care for the vulnerable adult;

15         6. A statement that, upon completion of the investigation, the

16         identified caretaker, legal guardian and next of kin will receive a  
17         letter from the Department appropriate state entity which will  
18         inform such caretaker, legal guardian and next of kin:

- 19           a. that the Department has found insufficient evidence of  
20           abuse, neglect or exploitation,
- 21           b. that there appears to be probable cause to suspect the  
22           existence of abuse, neglect or exploitation in the  
23           judgment of the Department, and

c. the recommendations of the Department appropriate state entity concerning the vulnerable adult;

7. The procedures concerning the process the caretaker, legal guardian and next of kin may use to acquire access to the vulnerable adult in the event the vulnerable adult is removed from the residence of the vulnerable adult and the circumstances under which access may be obtained;

8. The procedures to follow if there is a complaint regarding the actions of the ~~Department~~ appropriate state entity and the procedures to request a review of the findings made by the ~~Department~~ appropriate state entity during or at the conclusion of the investigation;

9. Information specifying that if the caretaker, legal guardian and next of kin of the vulnerable adult have any questions as to their legal rights, that such persons have a right to seek legal counsel;

10. References to the statutory and regulatory provisions governing abuse, neglect or exploitation and how the caretaker, legal guardian and next of kin may obtain copies of those provisions; and

11. An explanation that the caretaker, legal guardian and next of kin may review specific information gathered during the investigation and pertaining to the service needs of the vulnerable

1 adult subject to the requirements and exceptions provided in Section  
2 10-110 of this title.

3 SECTION 8. AMENDATORY 43A O.S. 2021, Section 10-106, is  
4 amended to read as follows:

5 Section 10-106. A. If the Department of Human Services  
6 determines, as a result of its investigation or an investigation by  
7 the Office of Client Advocacy within the State Department of Health,  
8 that a vulnerable adult needs protective services, the Department of  
9 Human Services shall immediately provide or arrange for the  
10 provision of available protective services in the least restrictive  
11 manner, provided the person affirmatively consents to receive these  
12 services.

13 B. 1. When a caretaker of a vulnerable adult who consents to  
14 the receipt of protective services refuses to allow the provision of  
15 such services to the person, the Department may petition to the  
16 court for a decree enjoining the caretaker from interfering with the  
17 provision of protective services to the person.

18 2. The complaint must allege specific facts sufficient to show  
19 that the person is a vulnerable adult in need of protective  
20 services, consents to the receipt of protective services, and that  
21 the caretaker refuses to allow the provision of such services.

22 3. If the court finds that the person is a vulnerable adult in  
23 need of protective services, consents to the receipt of protective  
24

1 services, and that the caretaker refuses to allow the provision of  
2 such services, the court may enter a decree:

- 3 a. enjoining the caretaker from interfering with the  
4 provision of protective services to the vulnerable  
5 adult, and
- 6 b. freezing the assets of the vulnerable adult if it has  
7 been determined by preponderance of the evidence that  
8 the vulnerable adult is being exploited and it is  
9 necessary to protect such assets.

10 C. If a vulnerable adult does not consent to the receipt of  
11 protective services or withdraws consent to the receipt of such  
12 services, the services shall be terminated, unless the Department  
13 determines that the person lacks capacity to consent, in which case  
14 the Department may seek court authorization to provide services  
15 pursuant to Section 10-108 of this title.

16 D. 1. Payment for the costs of providing protective services  
17 shall be made from either:

- 18 a. the assets of the vulnerable adult consenting to the  
19 receipt of voluntary protective services, or
- 20 b. any available private or public assistance programs  
21 for which the vulnerable adult is eligible.

22 2. If no assets or other private or public funds are available  
23 to the person, payment shall be made from a fund established by the  
24

1 Department for the purpose of providing emergency adult protective  
2 services, subject to availability of funds.

3 SECTION 9. AMENDATORY 43A O.S. 2021, Section 10-108, is

4 amended to read as follows:

5 Section 10-108. A. 1. If the Department of Human Services  
6 determines, as a result of its investigation or an investigation by  
7 the Office of Client Advocacy within the State Department of Health,  
8 that a vulnerable adult is suffering from abuse, neglect, self-  
9 neglect, or financial neglect or exploitation presenting a  
10 substantial risk of death or immediate and serious physical harm to  
11 the person or financial exploitation of the estate of the person,  
12 and the vulnerable adult lacks mental capacity to consent to receive  
13 protective services and no consent can be obtained, the Department  
14 of Human Services may petition the district court in the county  
15 specified by paragraph 3 of this subsection for an order:

16       a. authorizing involuntary protective services and  
17               appointing a temporary guardian of the person and/or  
18               the estate,

19       b. freezing the assets of the vulnerable adult, if the  
20               vulnerable adult is being exploited, establishing any  
21               new accounts necessary to pay the daily living  
22               expenses of the vulnerable adult, and directing a full  
23               accounting and investigation of the person alleged to

1                   be improperly managing the estate of the vulnerable  
2                   adult,

3                   c. suspending or revoking the powers of an attorney-in-  
4                   fact granted by a durable power of attorney, or  
5                   revoking an irrevocable trust, or terminating a  
6                   guardianship or conservatorship established pursuant  
7                   to the Oklahoma Guardianship and Conservatorship Act,  
8                   or

9                   d. directing any law enforcement agency to transport any  
10                  incapacitated person or vulnerable adult as necessary  
11                  for appropriate care, treatment and residential  
12                  placement. If such transportation is ordered,  
13                  reimbursement for expenses incurred from the  
14                  transportation of a vulnerable adult under the  
15                  Department's temporary guardianship shall be paid as  
16                  provided for in Section 10-107 of this title.

17                 2. Under no circumstances shall the court authorize the

18 Department, pursuant to this subsection, to consent or deny consent  
19 to a Do-Not-Resuscitate order or the withdrawal of hydration or  
20 nutrition or other life-sustaining treatment although the court  
21 retains jurisdiction to hear such matters under applicable law.

22                 3. The district court which may be petitioned by the Department  
23 for an order pursuant to paragraph 1 of this subsection is:

- a. the district court in the county in which the vulnerable adult resides,
  - b. the district court in the county in which the vulnerable adult is receiving inpatient services, or
  - c. the district court in the county where the vulnerable adult is located when any delay caused by taking the petition to the district court in the county of the residence of the vulnerable adult would result in greater substantial risk of death or greater serious physical harm to the vulnerable adult. The petition shall include an explanation of why the petition was filed in the district court in the county specified by this subparagraph rather than in the district court as specified in subparagraph a or b of this paragraph.

B. The petition shall be sworn to and include the name, age, address of the vulnerable adult who the Department has determined is in need of emergency protective services, the nature of the abuse, neglect, or exploitation, the services needed, and information relating to the capacity of the person to consent to services and a description of the attempts of the Department to gain consent and the name of the person or organization proposed to be appointed as temporary guardian.

C. 1. The vulnerable adult shall receive an opportunity for a hearing upon the petition, and shall be personally served with a

1 copy of the petition and a notice scheduling hearing at least forty-  
2 eight (48) hours prior to any such hearing if the petition seeks  
3 temporary guardianship of thirty (30) days or more.

4       2. a. The hearing shall be set by the court on an expedited  
5                  basis, but no later than five (5) calendar days, not  
6                  including weekends or holidays when the court is  
7                  closed, from the date the notice scheduling hearing is  
8                  signed by the judge. The vulnerable adult shall have  
9                  a right to a closed hearing unless such vulnerable  
10                 adult requests otherwise.

11       b. Unless the vulnerable adult objects or the person  
12                  requiring notification pursuant to this subparagraph  
13                  is alleged to have abused, neglected or exploited the  
14                  vulnerable adult, the following persons shall be  
15                  notified of any hearing held pursuant to this  
16                  subsection:

- 17                  (1) the legal guardian, guardian ad litem and  
18                          caretaker of the vulnerable adult,  
19                  (2) any person so requested by the vulnerable adult  
20                          to be present at the hearing, and  
21                  (3) persons required to be notified pursuant to  
22                          Section 3-110 of Title 30 of the Oklahoma  
23                          Statutes.

1       D. 1. Upon sworn testimony of a representative of the  
2 Department, or statement of a district attorney representing the  
3 Department, that immediate and reasonably foreseeable death or  
4 serious physical harm to or financial exploitation of the vulnerable  
5 adult will result, the court may waive prior notice and issue a  
6 seventy-two-hour temporary guardianship and provide involuntary  
7 protective services whether or not during regular courthouse  
8 business hours. However, within twenty-four (24) hours of issuance  
9 of the seventy-two-hour order, the vulnerable adult and the attorney  
10 of the vulnerable adult, if known, shall be personally served with  
11 written notice scheduling a hearing within seventy-two (72) hours.

12       2. If a hearing on the seventy-two-hour order is declined, or  
13 upon conclusion of any such hearing, the court may terminate the  
14 temporary guardianship and involuntary services or enter a temporary  
15 guardianship for up to thirty (30) additional calendar days as  
16 provided for in subsection G of this section.

17       E. 1. The vulnerable adult has a right to be present and  
18 represented by counsel at any hearing authorized by this section.  
19 If the vulnerable adult is indigent or, in the determination of the  
20 court, lacks capacity to waive the right to counsel, the court shall  
21 immediately appoint counsel who shall personally meet with the  
22 vulnerable adult and attempt to discuss the petition or any pending  
23 motion prior to any hearing.

1       2. If the vulnerable adult is not in attendance at a scheduled  
2 hearing, the court shall make a special finding as to why the  
3 vulnerable adult is unable to attend, and, upon the request of the  
4 vulnerable adult or the attorney of the vulnerable adult, may  
5 continue the hearing to allow the vulnerable adult to attend.

6       3. If the vulnerable adult is indigent, the cost of  
7 representation by counsel shall be borne by court funds.

8       4. If the vulnerable adult is not indigent, the court may order  
9 costs of representation paid from the estate in the same manner as  
10 currently paid under the Oklahoma Guardianship and Conservatorship  
11 Act.

12      F. 1. After a hearing on the petition, the court may:

13       a. appoint a temporary guardian and order involuntary  
14 protective services including, but not limited to,  
15 authorization for medical and/or psychological  
16 treatment and evaluations, and residential placement  
17 subject to the provisions of subsection G of this  
18 section,

19       b. issue an order freezing all assets of the vulnerable  
20 adult, establish any new accounts necessary to pay the  
21 daily living expenses of the vulnerable adult, and  
22 order a full accounting and investigation of the  
23 person alleged to be improperly managing the  
24 vulnerable adult's estate,

1                   c. suspend or revoke powers of attorney or terminate a  
2                   guardianship or conservatorship upon a finding that  
3                   the attorney-in-fact, guardian or conservator failed  
4                   to act appropriately on behalf of the vulnerable  
5                   adult, or

6                   d. order any law enforcement agency to transport any  
7                   incapacitated person or vulnerable adult as necessary  
8                   for appropriate care, treatment and residential  
9                   placement. If such transportation is ordered,  
10                  reimbursement for expenses incurred from the  
11                  transportation of a vulnerable adult under the  
12                  Department's temporary guardianship shall be paid as  
13                  provided for in Section 10-107 of this title.

14                 2. a. Except as otherwise provided by subparagraphs b and c  
15                  of this paragraph, the court appointing a temporary  
16                  guardian and ordering involuntary protective services  
17                  shall not have authority to order the sale of the real  
18                  property of the vulnerable adult.

19                 b. If the Department of Human Services has been appointed  
20                  temporary guardian and the court issues an order for  
21                  the Department to continue as the temporary guardian  
22                  of the vulnerable adult beyond the one hundred eighty  
23                  (180) calendar days authorized by this section because  
24                  there is no one willing and able to act as guardian

1 for the vulnerable adult, the Department, as temporary  
2 guardian may, after one (1) year from its initial  
3 appointment, sell the real property of a vulnerable  
4 adult pursuant to the provisions of the Oklahoma  
5 Guardianship and Conservatorship Act.

6 c. The Department, as temporary guardian of a vulnerable  
7 adult, may also sell the real property of the  
8 vulnerable adult pursuant to the provisions of the  
9 Oklahoma Guardianship and Conservatorship Act prior to  
10 the one-year requirement specified in subparagraph b  
11 of this paragraph, if not selling the real property  
12 would jeopardize the vulnerable adult's eligibility  
13 for Medicaid. The fact that the vulnerable adult  
14 would be in jeopardy for receipt of Medicaid if the  
15 property was not sold shall be stated upon the court  
16 order directing the sale of the real property of the  
17 vulnerable adult.

18 d. The court may issue an order authorizing the  
19 Department to sell personal property of a vulnerable  
20 adult when additional resources are required to pay  
21 for necessary care for the vulnerable adult pursuant  
22 to state law.

1       G. Whenever the court issues an order for involuntary  
2 protective services, the court shall adhere to the following  
3 limitations:

4           1. Only such protective services as are necessary to remove the  
5 conditions creating the emergency shall be ordered, and the court  
6 shall specifically designate the approved services in the order of  
7 the court. When the conditions creating the emergency have been  
8 removed, the court shall dismiss the temporary guardianship ordered  
9 pursuant to this section;

10          2. The scope of service provided by the Department shall be  
11 limited to protective services or the establishment of eligibility  
12 for protective services for the person and estate. The Department  
13 shall request dismissal of the temporary guardianship ordered  
14 pursuant to this section when:

- 15              a. an appropriate level of care for the vulnerable adult  
16                   as determined by the Department has been established,  
17              b. assets have been secured, if applicable, and  
18              c. a representative payee or trustee has been set for  
19                   financial management, if applicable;

20          3. Protective services authorized by an involuntary protective  
21 services order shall not include a change of residence unless the  
22 court specifically finds such action is necessary to remove the  
23 conditions creating the emergency and gives specific approval for  
24 such action in the order of the court. Emergency placement may be

1 made to such facilities as nursing homes, hospital rehabilitation  
2 centers, assisted living centers, foster care and in-home  
3 placements, or to other appropriate facilities for emergency care or  
4 evaluation to determine the extent of a vulnerable adult's physical,  
5 mental and functional limitations; provided, however, emergency  
6 placement shall not be made or construed as an alternative to  
7 emergency detention and protective custody as authorized under  
8 Section 5-206 et seq. of this title or made or construed as an  
9 alternative to involuntary commitment under Section 5-410 et seq. of  
10 this title when a vulnerable adult otherwise meets the criteria for  
11 involuntary commitment. Services to such vulnerable adults shall be  
12 provided in a manner that is appropriate for the adult's age and  
13 condition and, except for facilities operated by the Department of  
14 Mental Health and Substance Abuse Services or community-based  
15 structured crisis centers under contract with the Department  
16 pursuant to Section 3-317 of this title, services provided to  
17 vulnerable adults pursuant to this section shall be provided in a  
18 setting that is segregated from any patients or residents of a  
19 facility who have been determined to be a danger to others; and

20       4. Involuntary protective services may be provided for a period  
21 not to exceed thirty (30) calendar days except as provided by  
22 subsections L and M of this section.

23       H. The court shall appoint the Department or an interested  
24 person or organization as temporary guardian of the person with

1 responsibility for the welfare of such person and authority to give  
2 consent on behalf of the person for the approved involuntary  
3 protective services until the expiration of the order.

4 I. The issuance of an order for involuntary protective services  
5 and the appointment of a temporary guardian shall not deprive the  
6 vulnerable adult of any rights except to the extent validly provided  
7 for in the order or appointment.

8 J. 1. To enforce an order for involuntary protective services,  
9 the court may authorize:

10 a. forcible entry of the premises of the vulnerable adult  
11 to be protected for the purpose of rendering  
12 protective services but only after a reasonable  
13 showing to the court that good faith attempts to gain  
14 voluntary access to the premises have failed and  
15 forcible entry is necessary,

16 b. the transporting of the vulnerable adult to another  
17 location for the provision of involuntary services,  
18 and

19 c. the eviction of persons who are in a position to  
20 exploit the vulnerable adult from any property owned,  
21 leased, or rented by the vulnerable adult and  
22 restriction of those persons' further access to any  
23 property of the vulnerable adult.

1       2. If forcible entry is authorized by the court, the order  
2 shall include a directive that the Department's representative be  
3 accompanied by a police officer or deputy sheriff in the county  
4 where the vulnerable adult or property of the vulnerable adult is  
5 located, and the police officer or deputy sheriff shall make the  
6 forcible entry.

7           K. The vulnerable adult, the temporary guardian, or any  
8 interested person may petition the court to have the order to  
9 provide involuntary protective services set aside or modified at any  
10 time.

11          L. If the vulnerable adult continues to need involuntary  
12 protective services after expiration of the thirty-day temporary  
13 guardianship provided in subsection G of this section, the temporary  
14 guardian shall immediately file a verified motion requesting the  
15 court to, except as otherwise provided by subsection F of this  
16 section, continue the temporary guardianship and involuntary  
17 protective services under this section for a period not to exceed  
18 one hundred eighty (180) calendar days.

19           M. 1. Service of the verified motion shall be made in  
20 conformity with subsection C of this section.

21           2. Upon filing such motion, the court shall order that a  
22 physical, mental, and social evaluation of the vulnerable adult be  
23 conducted by the Department and that a proposed plan of care be  
24

1 submitted to the court within thirty (30) calendar days thereafter  
2 reflecting the evaluation findings and recommended services.

3       3. Upon filing such motion, the prior temporary guardianship  
4 shall remain in full force and effect pending a review hearing after  
5 the thirty-day evaluation period. The caretaker, guardian or next-  
6 of-kin of the vulnerable adult may request that the evaluation  
7 period be shortened for good cause.

8       4. The evaluation shall include at least the following  
9 information:

- 10           a. the address of the place where the person is residing  
11                          and the person or agency which is providing care,  
12                          treatment, or services at present,
- 13           b. a summary of the professional treatment and services  
14                          provided to the person by the Department or agency, if  
15                          any, in connection with the problem creating the need  
16                          for emergency protective services, and
- 17           c. a medical and social evaluation including, but not  
18                          limited to, the Department's assessment of the  
19                          person's capacity to consent to services, a  
20                          psychological or psychiatric evaluation and review if  
21                          the mental state of the person is in question, and any  
22                          recommendations for or against maintenance of partial  
23                          legal rights. The evaluation and review shall include  
24                          recommendations for placement based upon the best

1           interests of the vulnerable adult taking into  
2           consideration the following:

3           (1) the least restrictive environment,  
4           (2) the desires of the vulnerable adult and legal  
5           guardian,  
6           (3) the desires of the caretaker of the vulnerable  
7           adult and of any of the persons specified in  
8           Section 3-110 of Title 30 of the Oklahoma  
9           Statutes,  
10          (4) the physical and mental health needs of the  
11          vulnerable adult,  
12          (5) the available programs and services, and  
13          (6) the health, well-being and welfare of the  
14          vulnerable adult and the public.

15         During the hearing to consider the motion to continue the  
16         temporary guardianship of the vulnerable adult for up to one hundred  
17         eighty (180) calendar days, the court shall consider the  
18         Department's findings and proposed plan of care and any other  
19         evidence presented by the caretaker, guardian or other interested  
20         persons. The court shall either terminate the temporary  
21         guardianship and all involuntary services or continue the temporary  
22         guardianship and specify any necessary services to be provided by  
23         the Department for a period not to exceed one hundred eighty (180)  
24         calendar days. Provided, the court may continue the guardianship of

1 the Department, if there is no one willing and able to act as  
2 guardian for the vulnerable adult.

3       N. Neither the Department nor any of its employees or any other  
4 petitioner shall be liable for filing a petition pursuant to the  
5 Protective Services for Vulnerable Adults Act if the petition was  
6 filed in good faith.

7       SECTION 10.      AMENDATORY      43A O.S. 2021, Section 10-110, is  
8 amended to read as follows:

9           Section 10-110. A. The reports, records, and working papers  
10 used or developed in an investigation of the circumstances of a  
11 vulnerable adult pursuant to the provisions of the Protective  
12 Services for Vulnerable Adults Act are confidential and may be  
13 disclosed only pursuant to rules promulgated by the ~~Commission for~~  
14 Director of Human Services or the State Commissioner of Health, by  
15 order of the court, or as otherwise provided by this section or  
16 Section 10-110.1 of this title.

17           B. ~~Department of Human Services agency~~ Agency records of the  
18 Department of Human Services or the Office of Client Advocacy within  
19 the State Department of Health pertaining to a vulnerable adult may  
20 be inspected and their contents disclosed without a court order to  
21 the following persons upon showing of proper credentials and  
22 pursuant to their lawful duties:

23  
24

1       1. A district attorney and the employees of an office of a  
2 district attorney in the course of their official duties pursuant to  
3 this title or the prosecution of crimes against vulnerable adults;

4       2. The attorney representing a vulnerable adult who is the  
5 subject of a proceeding pursuant to the provisions of the Protective  
6 Services for Vulnerable Adults Act;

7       3. Employees of a law enforcement agency of this or another  
8 state and employees of protective services for vulnerable adults of  
9 another state;

10      4. A physician who has before him or her a vulnerable adult  
11 whom the physician reasonably suspects may have been abused or  
12 neglected or any health care or mental health professional involved  
13 in the evaluation or treatment of the vulnerable adult;

14      5. A caretaker, legal guardian, custodian or other family  
15 members of the vulnerable adult; provided, the Department  
16 appropriate state entity may limit such disclosures to summaries or  
17 to information directly necessary for the purpose of such  
18 disclosure;

19      6. Any public or private agency or person authorized by the  
20 Department to diagnose, provide care and treatment to a vulnerable  
21 adult who is the subject of a report or record of vulnerable adult  
22 abuse or neglect;

23      7. Any public or private agency or person authorized by the  
24 Department to supervise or provide other services to a vulnerable

1      adult who is the subject of a report or record of vulnerable adult  
2      abuse or neglect; provided, the Department may limit such disclosure  
3      to summaries or to information directly necessary for the purpose of  
4      such disclosure; and

5            8. Any person or agency for research purposes, if all of the  
6      following conditions are met:

7                a. the person or agency conducting such research is  
8                    employed by the State of Oklahoma or is under contract  
9                    with this state and is authorized by the ~~Department~~  
10                  Director of Human Services and the State Commissioner  
11                  of Health to conduct such research, and

12               b. the person or agency conducting the research ensures  
13                    that all documents containing identifying information  
14                    are maintained in secure locations and access to such  
15                    documents by unauthorized persons is prohibited; that  
16                    no identifying information is included in documents  
17                    generated from the research conducted; and that all  
18                    identifying information is deleted from documents used  
19                    in the research when the research is completed.

20               C. Nothing in this section shall be construed as prohibiting  
21      the ~~Department~~ appropriate state entity from disclosing such  
22      confidential information as may be necessary to secure appropriate  
23      care, treatment or protection of a vulnerable adult alleged to be  
24      abused or neglected.

1       D. Records and their contents disclosed pursuant to this  
2 section shall remain confidential. The use of such information  
3 shall be limited to the purposes for which disclosure is authorized.  
4 It shall be unlawful and a misdemeanor for any person to furnish any  
5 record or disclose any information contained therein for any  
6 unauthorized purpose.

7       E. Records of investigations conducted pursuant to the  
8 Protective Services for Vulnerable Adults Act shall not be expunged  
9 except by court order.

10      1. If the Department is currently or was previously appointed  
11 as temporary guardian of the alleged victim of abuse, neglect,  
12 financial exploitation, or financial neglect, any petition or motion  
13 requesting expungement of the investigative records of the  
14 Department shall be filed under the same case number.

15      2. Written notice of the hearing and a copy of any such  
16 petition or motion shall be properly and timely served upon:

- 17       a. the alleged victim of abuse, neglect, financial  
18                    exploitation, or financial neglect,
- 19       b. the Department's Office of General Counsel and any  
20                    other counsel of record in a proceeding in which the  
21                    Department was appointed as temporary guardian, and
- 22       c. all other persons due notice in a guardianship  
23                    proceeding involving the victim pursuant to Section 3-  
24                    110 of Title 30 of the Oklahoma Statutes.

1 SECTION 11. AMENDATORY 43A O.S. 2021, Section 10-111, is  
2 amended to read as follows:

3 Section 10-111. A. 1. The district courts are vested with  
4 jurisdiction to issue orders and enforce orders restricting  
5 visitation, by the custodian or by any other person specified by the  
6 court, of a vulnerable adult who is receiving or has been determined  
7 to need protective services pursuant to the Protective Services for  
8 Vulnerable Adults Act.

9 2. Whenever it is consistent with the welfare and safety of a  
10 vulnerable adult, the court shall restrict the visitation of a  
11 custodian or other person specified by the court who is alleged or  
12 has been determined to have abused, neglected or exploited the  
13 vulnerable adult.

14 3. Notice as ordered by the court shall be given to the  
15 custodian or other person alleged or determined to have abused,  
16 neglected or exploited a vulnerable adult.

17 B. If the Department of Human Services determines, as a result  
18 of its investigation or an investigation by the Office of Client  
19 Advocacy within the State Department of Health, that a vulnerable  
20 adult needs voluntary or involuntary protective services as a result  
21 of abuse, neglect or exploitation by the caretaker or by any other  
22 person, the Department of Human Services may petition the district  
23 court to restrict the visitation of such custodian or other person  
24 with the vulnerable adult.

1       C. 1. Consistent with the welfare and safety of the vulnerable  
2 adult, the court may require supervised visitation, prohibit  
3 visitation or otherwise limit the visitation by the custodian or  
4 such other person with the vulnerable adult.

5       2. The basis for restricting visitation shall be stated in the  
6 record by the court.

7       D. The owner, operator or any facility personnel of a nursing  
8 home, residential home, assisted living facility or other long-term  
9 care facility having reason to believe that visitation of a  
10 vulnerable adult should be restricted may notify the ~~long-term care~~  
11 ~~ombudsman program or adult protective services~~ Office of the State  
12 Long-Term Care Ombudsman within the Office of the Attorney General  
13 or the appropriate state entity. Any other person having reason to  
14 believe that visitation of a vulnerable adult should be restricted  
15 may notify the ~~Department of Human Services~~ appropriate state entity  
16 pursuant to the Protective Services for Vulnerable Adults Act.

17       SECTION 12.       AMENDATORY       56 O.S. 2021, Section 1025.3, is  
18 amended to read as follows:

19       Section 1025.3. A. The Director of ~~the Department of~~ Human  
20 Services shall promulgate rules to establish and maintain a  
21 community services worker registry. Such rules may include, but  
22 need not be limited to:

23       1. A procedure for notation in such registry of a final  
24 ~~Department of Human Services~~ investigative finding by the Office of

1     Client Advocacy within the State Department of Health or a finding

2     by an Administrative Law Judge of maltreatment of an individual by a  
3     community services worker or a Medicaid personal care assistant;

4       2. A procedure for notice and due process for a community  
5     services worker, or a Medicaid personal care assistant, or applicant  
6     before the entering of such person's name in the registry as having  
7     a final ~~Department of Human Services~~ Office of Client Advocacy  
8     investigative finding or Administrative Law Judge finding of  
9     maltreatment of an individual;

10      3. Disclosure requirements for information in the registry; and

11      4. Procedures for granting a waiver of the provisions of  
12     paragraph 1 of subsection ~~F~~ G of Section 1025.2 of this title by the  
13     Director of Human Services.

14       B. The community services worker registry shall include, but  
15     not be limited to, the following information on each community  
16     services worker and each Medicaid personal care assistant:

17       1. The individual's full name;

18       2. Information necessary to identify each individual;

19       3. The date the individual's name was placed in the registry;

20     and

21       4. Information on any final ~~Department of Human Services~~ Office  
22     of Client Advocacy investigative finding or Administrative Law Judge  
23     finding of maltreatment concerning the worker.

1       C. The Office of Client Advocacy shall promptly report final  
2 investigative findings to the Department of Human Services for the  
3 purposes of the community services worker registry.

4       D. A community services worker, a Medicaid personal care  
5 assistant, or applicant who is adversely affected by an  
6 Administrative Law Judge finding of maltreatment of an individual  
7 may seek judicial review pursuant to Article II of the  
8 Administrative Procedures Act. The finding of the Administrative  
9 Law Judge may be appealed to the district court of the county in  
10 which the community services worker, Medicaid personal care  
11 assistant, or applicant resides within thirty (30) days of the date  
12 of the decision. A copy of the petition shall be served by mail  
13 upon the general counsel of the Department of Human Services.

14       D. E. An investigation conducted under Section 1025.1 et seq.  
15 of this title shall include a process for notifying a community  
16 services provider of areas of concern and administrative  
17 information. An area of concern or administrative information shall  
18 not be considered final investigative findings, nor shall the area  
19 of concern or administrative information be included in a final  
20 investigative report of the ~~Department of Human Services~~ Office of  
21 Client Advocacy. The ~~Department~~ Office shall develop a procedure by  
22 which a community services provider may request an investigative  
23 status update within ten (10) calendar days of the initiation of an  
24 investigation conducted under Section 1025.1 et seq. of this title.

1 SECTION 13. AMENDATORY 63 O.S. 2021, Section 1-106, as  
2 amended by Section 1, Chapter 85, O.S.L. 2022 (63 O.S. Supp. 2024,  
3 Section 1-106), is amended to read as follows:

4 Section 1-106. A. The State Commissioner of Health shall serve  
5 at the pleasure of the Governor, and shall have skill and experience  
6 in public health duties and sanitary sciences and shall meet at  
7 least one of the following qualifications:

8 1. Possession of a Doctor of Medicine Degree and a license to  
9 practice medicine in this state;

10 2. Possession of an Osteopathic Medicine Degree and a license  
11 to practice medicine in this state;

12 3. Possession of a Doctoral degree in Public Health or Public  
13 Health Administration; or

14 4. Possession of a Master of Science Degree and a minimum of  
15 five (5) years of supervisory experience in the administration of  
16 health services.

17 B. The Commissioner shall be exempt from all qualifications  
18 enumerated in subsection A of this section if the Commissioner  
19 possesses at least a master's degree and has experience in  
20 management of state agencies or large projects.

21 C. The Commissioner shall have the following powers and duties,  
22 unless otherwise directed by the Governor:

23 1. Have general supervision of the health of the citizens of  
24 the state; make investigations, inquiries and studies concerning the

1 causes of disease and injury, and especially of epidemics, and the  
2 causes of mortality, and the effects of localities, employment,  
3 conditions and circumstances on the public health; investigate  
4 conditions as to health, sanitation and safety of schools, prisons,  
5 public institutions, mines, public conveyances, camps, places of  
6 group abode, and all buildings and places of public resort, and  
7 recommend, prescribe and enforce such measures of health, sanitation  
8 and safety for them as the Commissioner deems advisable; take such  
9 measures as deemed necessary by the Commissioner to control or  
10 suppress, or to prevent the occurrence or spread of, any  
11 communicable, contagious or infectious disease, and provide for the  
12 segregation and isolation of persons having or suspected of having  
13 any such disease; designate places of quarantine or isolation;  
14 advise state and local governments on matters pertaining to health,  
15 sanitation and safety; and abate any nuisance affecting injuriously  
16 the health of the public or any community. Any health information  
17 or data acquired by the Commissioner from any public agency, which  
18 information or data is otherwise confidential by state or federal  
19 law, shall remain confidential notwithstanding the acquisition of  
20 this information by the Commissioner;\_

21       2. Be the executive officer and supervise the activities of the  
22 State Department of Health, and act for the Department in all  
23 matters except as may be otherwise provided in this Code; administer  
24 oaths at any hearing or investigation conducted pursuant to this

1 Code; and enforce rules and standards adopted by the Commissioner.

2 All rules adopted by the Commissioner are subject to the terms and  
3 conditions of the Administrative Procedures Act.;

4       3. Appoint an Assistant State Commissioner of Health and fix  
5 the qualifications, duties and compensation of the Assistant State  
6 Commissioner of Health; and employ, appoint and contract with, and  
7 fix the qualifications, duties and compensation of, such other  
8 assistants, doctors, engineers, attorneys, sanitarians, nurses,  
9 laboratory personnel, administrative, clerical and technical help,  
10 investigators, aides and other personnel and help, either on a full-  
11 time, part-time, fee or contractual basis, as shall be deemed by the  
12 Commissioner necessary, expedient, convenient or appropriate to the  
13 performance or carrying out of any of the purposes, objectives or  
14 provisions of this Code, or to assist the Commissioner in the  
15 performance of official duties and functions.;

16       4. Cause investigations, inquiries and inspections to be made,  
17 and hold hearings and issue orders pursuant to the provisions of the  
18 Administrative Procedures Act, to enforce and make effective the  
19 provisions of this Code, and all rules and standards adopted by the  
20 Commissioner pursuant to law and the Commissioner or the  
21 representative of the Commissioner shall have the right of access to  
22 any premises for such purpose at any reasonable time, upon  
23 presentation of identification.;

1       5. Authorize persons in the State Department of Health to  
2 conduct investigations, inquiries and hearings, and to perform other  
3 acts that the Commissioner is authorized or required to conduct or  
4 perform personally-;

5       6. Except as otherwise provided by law, all civil and criminal  
6 proceedings under this Code shall be initiated and prosecuted by the  
7 district attorney where the violation takes place-;

8       7. Issue subpoenas for the attendance of witnesses and the  
9 production of books and records at any hearing to be conducted by  
10 the Commissioner and issue subpoenas for the testimony of  
11 individuals or for the production of records in connection with an  
12 investigation conducted by the Office of Client Advocacy within the  
13 State Department of Health; and if a person disobeys any such  
14 subpoena, or refuses to give evidence before, or to allow books and  
15 records to be examined by, the Commissioner after such person is  
16 directed to do so, the Commissioner may file a contempt proceeding  
17 in the district court of the county in which the premises involved  
18 are situated, or, if no premises are involved, of the county in  
19 which such person resides or has a principal place of business, and  
20 a judge of such court, after a trial de novo, may punish the  
21 offending person for contempt-;

22       8. Unless otherwise required by the terms of a federal grant,  
23 sell, exchange or otherwise dispose of personal property that has  
24 been acquired by the State Department of Health, or any of its

1 components, when such property becomes obsolete or is no longer  
2 needed; any money derived therefrom shall be deposited in the Public  
3 Health Special Fund-;

4 9. Sell films, educational materials, biological products and  
5 other items produced by the State Department of Health; and all  
6 proceeds therefrom shall be deposited in the Public Health Special  
7 Fund-;

8 10. Revoke or cancel, or suspend for any period up to one (1)  
9 year, any license or permit issued under or pursuant to this Code,  
10 or by the Commissioner, when the Commissioner determines that ground  
11 therefor as prescribed by this Code exists, or that the holder of  
12 such license or permit has violated any law, or any of the  
13 provisions of this Code, or any rules or standards of the  
14 Commissioner filed with the Secretary of State, but the Commissioner  
15 shall first afford the holder an opportunity to show cause why the  
16 license or permit should not be revoked, canceled or suspended,  
17 notice of such opportunity to be given by certified United States  
18 Mail to the holder of the license or permit at the last-known  
19 address of such holder-;

20 11. Accept, use, disburse and administer grants, allotments,  
21 gifts, devises, bequests, appropriations and other monies and  
22 property offered or given to the State Department of Health, or any  
23 component or agency thereof, by any agency of the federal  
24 government, or any corporation or individual-;

1       12. Be the official agency of the State of Oklahoma in all  
2 matters relating to public health which require or authorize  
3 cooperation of the State of Oklahoma with the federal government or  
4 any agency thereof; coordinate the activities of the State  
5 Department of Health with those of the federal government or any  
6 department or agency thereof, and with other states, on matters  
7 pertaining to public health, and enter into agreements for such  
8 purpose, and may accept, use, disburse and administer, for the  
9 office of the Commissioner or for the State Department of Health,  
10 for any purpose designated and on the terms and conditions thereof,  
11 grants of money, personnel and property from the federal government  
12 or any department or agency thereof, or from any state or state  
13 agency, or from any other source, to promote and carry on in this  
14 state any program relating to the public health or the control of  
15 disease, and enter into agreements for such purposes.;

16       13. ~~The State Commissioner of Health may appoint~~ Appoint  
17 commissioned peace officers, certified by the Council on Law  
18 Enforcement Education and Training, to investigate violations of the  
19 Public Health Code and to provide security to Department  
20 facilities.; and

21       14. Pursuant to ~~Section 2 of this act~~ Section 1-106.4 of this  
22 title, the State Commissioner of Health shall appoint a Chief  
23 Medical Officer who reports directly to the ~~State Commissioner of~~  
24 Health Commissioner.

1 SECTION 14. It being immediately necessary for the preservation  
2 of the public peace, health or safety, an emergency is hereby  
3 declared to exist, by reason whereof this act shall take effect and  
4 be in full force from and after its passage and approval.

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