

STATE OF OKLAHOMA

1st Session of the 60th Legislature (2025)

SENATE BILL 949

By: Rosino

AS INTRODUCED

An Act relating to the Office of Client Advocacy; amending 10A O.S. 2021, Section 1-6-103, which relates to the Oklahoma Children's Code; authorizing the Office to inspect certain records; amending 43A O.S. 2021, Section 10-105, which relates to protective services for vulnerable adults; defining term; modifying and 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; requiring the Office to promptly report investigative findings to the Department of Human Services; updating statutory language; updating statutory reference; and declaring an emergency.

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

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

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

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

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

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

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

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

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

3 7. The Office of Juvenile Affairs;

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

- 10 a. investigating a report of known or suspected child
11 abuse or neglect or crimes against children or for the
12 purpose of determining whether to place a child in
13 protective custody,
- 14 b. providing services to or for the benefit of a child
15 including, but not limited to, protective, emergency,
16 social and medical services, or
- 17 c. the tribe, the tribal court or the tribal child
18 welfare program has asserted jurisdiction or
19 intervened in any case in which the child is the
20 subject of the proceedings or is a party to the
21 proceedings pursuant to the authority provided in the
22 Oklahoma Indian Child Welfare Act.

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

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

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

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

11 12. A foster parent, with regard to records concerning the
12 social, medical, psychological, or educational needs of a child
13 currently placed with that foster parent or of a child being
14 considered for placement with that foster parent;

15 13. An employee of any state or federal corrections or law
16 enforcement agency in the performance of the official duties of the
17 employee concerning presentence investigations or supervision of a
18 parent of an alleged or adjudicated deprived child, or the legal
19 guardian, custodian, or any other adult member of the child's home
20 who is responsible for the health, safety, or welfare of the child;

21 14. An employee of a state agency of this or another state in
22 the performance of the official duties of the employee concerning
23 the establishment of paternity or the establishment or enforcement
24 of a child support order or other entitlement for the benefit of a
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1 child; provided, disclosure shall be limited to information directly
2 related to the purpose of such disclosure;

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

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

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

15 18. The Office of Client Advocacy within the State Department
16 of Health.

17 B. In addition to the persons listed in subsection A of this
18 section, juvenile court records may be inspected, and their contents
19 shall be disclosed, without a court order to the following persons
20 upon showing of proper credentials and pursuant to their lawful
21 duties:

22 1. Employees of court-appointed special advocate programs, as
23 defined in Section 1-1-105 of this title, in the course of their
24 official duties pertaining to recruiting, screening, training,

1 assigning cases, supervising, and supporting volunteers in their
2 roles as guardian ad litem pursuant to Section 1-4-306 of this
3 title;

4 2. Members of postadjudication review boards established
5 pursuant to the provisions of Section 1116.2 of Title 10 of the
6 Oklahoma Statutes, the Child Death Review Board, and
7 multidisciplinary personnel. In addition to juvenile court records,
8 members of such postadjudication review boards may inspect, without
9 a court order, information that includes, but is not limited to:

- 10 a. psychological and medical records,
- 11 b. placement history and information, including the names
12 and addresses of foster parents,
- 13 c. family assessments,
- 14 d. treatment or service plans, and
- 15 e. school records;

16 3. The Department of Human Services or other public or private
17 agency or individual having court-ordered custody or physical
18 custody pursuant to Department placement of the child, or conducting
19 a child abuse or neglect investigation of the child who is the
20 subject of the record. In addition to juvenile court records,
21 employees of the Department may inspect, without a court order and
22 upon a showing of proper credentials and pursuant to their lawful
23 duties, information that includes, but is not limited to:

- 24 a. psychological and medical records, and

1 b. nondirectory education records;

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

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

8 C. In addition to the persons and entities named in subsection
9 A of this section, Department of Human Services agency records may
10 be inspected, and their contents shall be disclosed, without a court
11 order to the following persons upon showing of proper credentials
12 and pursuant to their lawful duties:

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

15 2. Any district court which has ordered a home study by the
16 Department in an action for divorce, annulment, custody of a child,
17 or appointment of a legal guardian of a child, or any subsequent
18 proceeding in such actions; provided, however, the Department may
19 limit disclosure in the home study to summaries or to information
20 directly related to the purpose of the disclosure;

21 3. Members of multidisciplinary teams or multidisciplinary
22 personnel designated by the Department, investigating a report of
23 known or suspected child abuse or neglect or providing services to a
24 child or family which is the subject of the report;

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

6 5. Any public or private agency or person authorized by the
7 Department to diagnose, or provide care, treatment, supervision, or
8 other services to a child who is the subject of a report or record
9 of child abuse or neglect; provided, the Department may limit such
10 disclosure to summaries or to information directly necessary for the
11 purpose of such disclosure;

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

- 14 a. the person or agency conducting the research is
15 employed by the State of Oklahoma or is under contract
16 with this state and is authorized by the Department to
17 conduct the research, and
18 b. the person or agency conducting the research ensures
19 that all documents containing identifying information
20 are maintained in secure locations and access to the
21 documents by unauthorized persons is prohibited; that
22 no identifying information is included in documents
23 generated from the research conducted; and that all

1 identifying information is deleted from documents used
2 in the research when the research is completed;

3 7. The Oklahoma Health Care Authority; and

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

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

11 E. The court may disclose to an employee of an out-of-state
12 entity, licensed to perform adoption home studies in that state,
13 whether the prospective adoptive parent has had parental rights to a
14 child terminated in Oklahoma or whether the prospective adoptive
15 parent has relinquished parental rights to a child in Oklahoma.

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

20 SECTION 2. AMENDATORY 43A O.S. 2021, Section 10-105, is
21 amended to read as follows:

22 Section 10-105. A. As used in this section, "appropriate state
23 entity" means:

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

3 a. a certified member of the plaintiff class in Homeward
4 Bound, Inc., et al. v. The Hisson Memorial Center, et
5 al., Case Number 85-C-437-E, United States District
6 Court for the Northern District of Oklahoma,

7 b. a resident of the Robert M. Greer Center or successor
8 facility, or

9 c. receiving services from a community services provider,
10 community services worker, Medicaid personal care
11 services provider, or Medicaid personal care
12 assistant, as those terms are defined in Section
13 1025.1 of Title 56 of the Oklahoma Statutes;

14 2. The Office of the State Long-Term Care Ombudsman within the
15 Office of the Attorney General, if the allegation concerns a
16 vulnerable adult who is a resident of a long-term care facility; or

17 3. The Department of Human Services, if the allegation concerns
18 a vulnerable adult who does not meet the description of either
19 paragraph 1 or paragraph 2 of this subsection.

20 B. Upon receiving a report of alleged abuse, neglect, or
21 exploitation of a vulnerable adult pursuant to the provisions of the
22 Protective Services for Vulnerable Adults Act, the ~~Department of~~
23 ~~Human Services~~ appropriate state entity shall make a prompt and
24 thorough investigation. When feasible, law enforcement and the

1 ~~Department~~ appropriate state entity shall conduct joint
2 investigations in order to reduce potential trauma to the victim and
3 to eliminate duplicative efforts.

4 ~~B.~~ C. The investigation shall include:

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

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

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

23 4. Diagnostic evaluation to determine whether the person needs
24 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.~~ D. 1. a. Investigations conducted pursuant to this
17 section shall include a visit to the home or other
18 place of residence of the person who is the subject of
19 the report, a private interview with such person and
20 any other potential victims, and consultation with
21 persons who have knowledge of or may be witnesses to
22 the circumstances.

23 b. Investigators shall be suitably trained in interview
24 techniques and shall utilize such techniques in
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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.~~ E. When a report is received pertaining to a vulnerable
16 adult who has a legal guardian, a copy of the investigative report
17 of the ~~Department~~ appropriate state entity shall be filed with the
18 court to which the guardian is accountable.

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

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

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

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

20 b. Whenever the ~~Department of Human Services~~ Office of
21 the State Long-Term Care Ombudsman believes that the
22 conditions giving rise to a complaint by the
23 ~~Department Office~~ alleging a serious threat to the
24 health, safety or welfare of a resident of a nursing

1 facility, residential care facility, assisted living
2 facility or continuum of care facility have not been
3 adequately addressed, the ~~Department of Human Services~~
4 Office may request the State Department of Health to
5 hold a hearing on the complaint as provided by Section
6 309 of Title 75 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.~~ G. When a report is received pertaining to a vulnerable
13 adult residing in a facility other than the home of the vulnerable
14 adult, where persons are employed to provide care and those
15 employees have been named as persons responsible for the abuse,
16 neglect or exploitation, the ~~Department~~ appropriate state entity
17 shall forward 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 H. 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
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1 entity for the vulnerable adult as specified in subsection A of this
2 section.

3 SECTION 3. AMENDATORY 56 O.S. 2021, Section 1025.3, is
4 amended to read as follows:

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

9 1. A procedure for notation in such registry of a final
10 ~~Department of Human Services~~ investigative finding by the Office of
11 Client Advocacy within the State Department of Health or a finding
12 by an Administrative Law Judge of maltreatment of an individual by a
13 community services worker or a Medicaid personal care assistant;

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

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

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

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

4 1. The individual's full name;

5 2. Information necessary to identify each individual;

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

7 and

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

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

14 D. A community services worker, a Medicaid personal care
15 assistant, or applicant who is adversely affected by an
16 Administrative Law Judge finding of maltreatment of an individual
17 may seek judicial review pursuant to Article II of the
18 Administrative Procedures Act. The finding of the Administrative
19 Law Judge may be appealed to the district court of the county in
20 which the community services worker, Medicaid personal care
21 assistant, or applicant resides within thirty (30) days of the date
22 of the decision. A copy of the petition shall be served by mail
23 upon the general counsel of the Department of Human Services.

1 ~~D.~~ E. An investigation conducted under Section 1025.1 et seq.
2 of this title shall include a process for notifying a community
3 services provider of areas of concern and administrative
4 information. An area of concern or administrative information shall
5 not be considered final investigative findings, nor shall the area
6 of concern or administrative information be included in a final
7 investigative report of the ~~Department of Human Services~~ Office of
8 Client Advocacy. The ~~Department~~ Office shall develop a procedure by
9 which a community services provider may request an investigative
10 status update within ten (10) calendar days of the initiation of an
11 investigation conducted under Section 1025.1 et seq. of this title.

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

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