

STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

HOUSE BILL NO. 2218

BY: McCORKELL

AS INTRODUCED

AN ACT RELATING TO MENTAL HEALTH; AMENDING 43A O.S. 1991, SECTIONS 10-105 AND 10-110, WHICH RELATE TO PROTECTIVE SERVICES FOR THE ELDERLY AND FOR INCAPACITATED ADULTS ACT; REQUIRING THE DEPARTMENT OF HUMAN SERVICES TO MAINTAIN A PERMANENT CENTRAL REGISTRY FOR FINDINGS OF ABUSE, EXPLOITATION, AND NEGLECT OF ELDERLY AND INCAPACITATED ADULTS; PROVIDING FOR AVAILABILITY; AUTHORIZING CERTAIN DISCLOSURE; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. AMENDATORY 43A O.S. 1991, Section 10-105, is amended to read as follows:

Section 10-105. A. Upon receiving a report of alleged abuse, neglect, or exploitation of an elderly person or incapacitated adult pursuant to the provisions of the Protective Services for the Elderly and for Incapacitated Adults Act, the Department of Human Services shall make a prompt and thorough investigation.

B. The investigation by the Department shall include:

1. diagnostic evaluation to determine whether the person needs protective services; and

2. what least restrictive services are needed; and

3. whether services are available from the Department or in the community and how the services can be provided; and

4. whether the person would be capable of obtaining services for himself and could bear the cost or would be eligible for services from the Department; and

5. whether a caretaker would be willing to provide services or would agree to their provision; and

6. whether the person desires the services; and

7. what followup investigation and monitoring of the services will be needed; and

8. other relevant data.

C. The Department's investigation shall include a visit to the home of said person and consultation with persons who have knowledge of the circumstances. If, in the course of an investigation of this nature, the Department is denied entrance to the home of a person believed to be an adult in need of protective services, the Department may petition the court for an order allowing entry. The petition shall state the name and address of the person and shall allege specific facts sufficient to show that the circumstances of the person are in need of investigation. If it is necessary to forcibly enter the premises, the representative of the Department shall make the entry accompanied by a peace officer.

D. In the case of a report pertaining to an elderly person or incapacitated adult who is a resident of a nursing facility or residential care facility, the Department shall immediately notify the State Department of Health of such report in writing, and shall forward to the State Department of Health a copy of the Department's final investigative report. Nothing herein shall prevent the State Department of Health from conducting any type of investigation or

taking any appropriate action pursuant to the provisions of the Nursing Home Care Act, ~~Section 1-1902 et seq. of Title 63 of the Oklahoma Statutes,~~ and the Residential Care Act, ~~Section 1-819 et seq. of Title 63 of the Oklahoma Statutes.~~

E. The Department shall be responsible for maintaining a permanent central registry, suitably cross-indexed, of all reported findings of abuse, exploitation, and neglect of elderly or incapacitated persons. Any information contained in the central registry shall be available to any county office and to any district attorney's office or public law enforcement agency investigating a report of suspected abuse, exploitation, or neglect of elderly or incapacitated persons. The Department may promulgate rules and regulations in furtherance of the provisions of this subsection.

SECTION 2. AMENDATORY 43A O.S. 1991, Section 10-110, is amended to read as follows:

Section 10-110. ~~The~~ Except as otherwise provided by Section 10-105 of this title, the reports, records, and working papers used or developed in an investigation of the circumstances of an elderly person or incapacitated adult pursuant to the provisions of the Protective Services for the Elderly and for Incapacitated Adults Act are confidential and may be disclosed only pursuant to regulations adopted by the Department or by order of the court.

SECTION 3. This act shall be effective September 1, 1992.

43-2-7589 KSM