

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

COMMITTEE SUBSTITUTE

FOR HOUSE BILL NO. 2617

By: Johnson (Rob)

COMMITTEE SUBSTITUTE

An Act relating to public health and safety; creating a Maternal Substance Abuse Registry; stating purpose; requiring the submitting of certain reports; specifying contents of such reports; providing for confidentiality; defining term; authorizing certain persons access to records under specified conditions; authorizing the sharing of data under certain circumstances; specifying confidential communications; stating that no reported mother will be required to receive certain services under this act; authorizing certain rules; requiring certain report; prohibiting certain acts; providing penalties; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-550.3 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The State Commissioner of Health shall establish and maintain an up-to-date Maternal Substance Abuse Registry to ensure an accurate and continuing source of data concerning such maternal substance abuse reports as provided by the Child Welfare Division of the Department of Human Services pursuant to Section 846 of Title 21 of the Oklahoma Statutes. Such registry may include data necessary for surveys and scientific research, and other data which is necessary and proper to further the recognition, prevention, control and treatment of mothers who expose their infants to harmful substances or cause their infants to be born addicted to such harmful substances. For purposes of this section, "harmful substance" means an intoxicating liquor or a controlled dangerous substance.

B. The Commissioner, pursuant to rules of the State Board of Health, may require the Child Welfare Division of the Department

of Human Services to report any or all data and information necessary for the purposes of this section which may include the following:

1. Hospital identifier or other identifier; and

2. Type and degree of substance abuse, method of treatment and the name and address of any facility providing treatment.

C. The Commissioner shall protect the identity of the reported mother and physician involved in any report required by this section, and shall not release their identity without written consent, except that:

1. The Commissioner shall grant access to such confidential information to the Department of Mental Health and Substance Abuse Services upon request by the Department. Any such information so received by the Department shall be subject to confidentiality requirements pursuant to the provisions of this section.

2. The Commissioner may grant any person involved in a legitimate research activity access to confidential information obtained by the Department concerning the reported mothers if:

- a. the research activity is determined to be in the interest of the public health and welfare,

- b. the person conducting the research provides written information about the purpose of the research project, the nature of the data to be collected and how the researcher intends to analyze it, the records the researcher wishes to review, and the safeguards the researcher will take to protect the identity of the reported mothers whose records the researcher will be reviewing,

- c. the proposed safeguards are adequate to protect the identity of each reported mother whose records will be reviewed, and

- d. an agreement is executed between the Commissioner of Health and the researcher that specifies the researcher's use of the records and that prohibits the publication or release of the names of individual reported mothers or any facts tending to

lead to the identification of individual reported mothers;

3. Data on reported mothers may be shared with other registries, private or governmental, within or without the state, provided that a reciprocal data-sharing agreement, approved by the Commissioner, is implemented with that registry. Such agreements shall include reported mothers' identification confidentiality requirements; and

4. Provided further, that any confidential information released by the Commissioner pursuant to this section shall be deemed to be a confidential communication within the meaning of the physician-patient and the psychotherapist-patient privilege.

D. Nothing in this section shall be construed to compel any individual reported mother to submit to any medical examination, treatment or supervision of any kind, nor shall anyone providing information in accordance with this act be deemed to be, or held liable for, divulging confidential information.

E. The State Board of Health is empowered to promulgate and adopt rules to carry out the provisions of this section.

F. Beginning January 1, 1996, the State Department of Health shall compile and evaluate information received from the reports required pursuant to this section in a report to be distributed on or before January 1 of each year to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate and to such other person as the Commissioner deems advisable or necessary.

G. Any person who, in violation of a written agreement to maintain confidentiality, willfully discloses any information provided pursuant to this section shall be denied further access to any confidential information maintained by the Department. Upon conviction, that person shall also be deemed guilty of a misdemeanor, and shall be punished by a fine of Two Hundred Dollars (\$200.00) or imprisonment in the county jail for not more than thirty (30) days, or by both such fine and imprisonment.

SECTION 2. This act shall become effective January 1, 1995.

44-2-9076

KSM