

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

HOUSE BILL NO. 1497

By: Hefner

AS INTRODUCED

An Act relating to mental health; amending 43A O.S. 1991, Section 10-105, which relates to incapacitated persons; clarifying language; 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~~ This section shall not 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.

SECTION 2. This act shall become effective September 1, 1993.

44-1-5097

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