

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 2024

By: Boyd (Laura) of the House

and

Cain of the Senate

COMMITTEE SUBSTITUTE

(Mental health - Office of Advocacy - Advocate General -
Office of Ombudsman - codification -

effective date)

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 2-206a of Title 43A, unless
there is created a duplication in numbering, reads as follows:

A. There is hereby established the Office of Advocacy and the
position of Advocate General within the Department of Mental Health
and Substance Abuse Services.

B. The Office of Advocacy and the Advocate General shall be
under the direct authority and control of the Board of Mental Health
and Substance Abuse Services. The purpose of the Advocacy Division
shall be to ensure:

1. Uniform application and protection of client rights;
2. Unimpeded access to appropriate services as provided by law;
3. That mental health laws, rules, policies and other mandates
related to the rights of mental health clients are observed by

facilities operated or certified by, or under contract with, the Department; and

4. Implementation and operation of the Ombudsman Program established by Section 2 of this act.

C. The Advocate General shall be an attorney licensed to practice law in this state and shall be appointed by the Board of Mental Health and Substance Abuse Services. The Advocate General shall report to the Board of Mental Health and Substance Abuse Services, and may only be removed by the Board for cause. The Advocate General shall:

1. Be responsible for the supervision of the Office of Advocacy and the patient advocates assigned to facilities operated by the Department;

2. Have the responsibility and authority to investigate any allegation of violations of clients' rights within facilities operated or certified by, or under contract with, the Department;

3. Administer the Ombudsman Program; and

4. Make recommendations to the Board, the Commissioner, the Department, and other appropriate entities based upon findings of an investigation.

D. The Board shall provide adequate resources for the Advocacy Division to carry out its duties and purposes.

E. The Department shall promptly and immediately report to the appropriate district attorney having jurisdiction any act or omission by persons employed by the Department, perpetrated, committed or suffered or allowed to be perpetrated or committed by such person or persons upon any person in the custody of the Department, wherever housed, when such act or omission, upon conviction, would constitute a criminal offense. Copies of all such reports shall be forwarded to the Attorney General.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-206b of Title 43A, unless there is created a duplication in numbering, reads as follows:

A. There is hereby established an Ombudsman Program within the Office of Advocacy of the Department of Mental Health and Substance Abuse Services. The Ombudsman Program shall be under the direct authority and control of the Board of Mental Health and Substance Abuse Services and shall be administered by the Advocate General.

B. The purpose of the Ombudsman Program shall be to:

1. Identify, investigate and resolve complaints that:

a. are made by, or on behalf of, clients, and

b. relate to action, inaction or decisions, of:

(1) providers, or representatives of providers, of mental health and substance abuse, and domestic violence services,

(2) public agencies, or

(3) health and social service agencies,

that may adversely affect the health, safety, welfare or rights of clients;

2. Provide services to assist clients in protecting their health, safety, welfare and rights;

3. Inform clients about means of obtaining legal services and services offered by providers or agencies;

4. Ensure that clients have regular and timely access to the services provided through the Ombudsman Program;

5. Ensure that clients and complainants receive timely responses from the Office and representatives of the Office regarding complaints;

6. Participate in external advocacy and client organizations;

7. Represent the interests of clients before governmental agencies and seek administrative, legal and other remedies to protect the health, safety, welfare and rights of the clients;

8. a. Analyze, comment on and monitor the development and implementation of federal, state and local laws, rules and other governmental policies and actions that pertain to the health, safety, welfare and rights of clients, with respect to the adequacy of facilities, programs and services in this state,
- b. Recommend any changes in such laws, rules, policies and actions as the Office determines to be appropriate, and
- c. Facilitate public comment on the laws, rules, policies and actions;

9. a. Promote the development of citizen organizations to participate in the Ombudsman Program, and
- b. provide technical support for the development of state and local client advocacy organizations to protect the well-being and rights of clients;

10. Develop and implement a statewide program for the recruitment and supervision of local volunteer ombudsmen to serve as representatives of the Ombudsman Program; and

11. Carry out such other activities as the Board determines to be appropriate.

C. Initial implementation of the Ombudsman Program shall provide for services to persons who may require or are receiving mental health services. Expansion of the program to include persons requiring or receiving substance abuse or domestic violence services may be phased in over a period of time, subject to availability of funds and other resources for that purpose.

D. For purposes of the Governmental Tort Claims Act, any state, area or local ombudsman shall be deemed to be an employee of this state and as such shall not be personally liable for any act or omission made within the scope of employment, as such term is defined by the Governmental Tort Claims Act.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-206c of Title 43A, unless there is created a duplication in numbering, reads as follows:

The Department of Mental Health and Substance Abuse Services shall contract with a statewide organization representing mental health consumers or their families for the purpose of assisting the Office of Advocacy in the fulfillment of the duties and responsibilities of the Office.

SECTION 4. This act shall become effective November 1, 1997.

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