

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

HOUSE BILL NO. 2024

By: Boyd (Laura)

AS INTRODUCED

An Act relating to mental health; establishing an Office of Advocacy and position of Advocate General within the Department of Mental Health and Substance Abuse Services; specifying duties; establishing qualifications for Advocate General; specifying responsibilities; directing the Department to make certain reports to district attorneys and the Attorney General; establishing an Office of Ombudsman and the position of Ombudsman within the Department of Mental Health and Substance Abuse Services; specifying duties and responsibilities; providing for the establishment and implementation of an Ombudsman Program; providing for certain exclusions from liability for certain ombudsmen; authorizing the Department to contract with certain statewide organizations for certain purposes; 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 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 directly under the authority and control of the Board of Mental Health and Substance Abuse Services. The purpose of the Advocacy Division is to ensure:

1. Uniform application and protection of client rights;

2. Unimpeded access to appropriate services as provided by law; and

3. That mental health laws, regulations, policies and other mandates related to the rights of clients are observed by facilities operated by, certified by, or under contract with the Department.

C. The Advocate General shall be an attorney licensed to practice law in the State of Oklahoma and shall be appointed by the State Board of Mental Health and Substance Abuse Services. The Advocate General shall report to the State 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 Department facilities;

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

3. Make recommendations to the Board, the Commissioner and 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 the Office of Ombudsman and the position of Ombudsman within the Department of Mental Health and Substance Abuse Services. The Office of Ombudsman and the Ombudsman shall be directly under the authority and control of the Board of Mental Health and Substance Abuse Services.

B. The purpose of the Office of Ombudsman shall be as follows:

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 services,

(2) public agencies, or

(3) health and social service agencies,

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

2. Provide services to assist the 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 Office;

5. Ensure that the 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. Share information and coordinate activities with the Office of Advocacy;

8. 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;

9. a. analyze, comment on and monitor the development and implementation of federal, state and local laws, rules and other government 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;

10. 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; and

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

C. The Ombudsman shall be appointed by the Board and may be removed by the Board for cause. The Ombudsman shall report to the Board and shall be responsible for:

1. The supervision of the Office of Ombudsman; and

2. Developing and implementing a statewide Ombudsman Program for the recruitment and supervision of local volunteer ombudsmen to serve as representatives of the Office of Ombudsman.

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 may contract with a statewide organization representing mental health consumers for the purpose of assisting the Office of Ombudsman in the fulfillment of the duties and responsibilities of the Office.

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

46-1-5839

CLD