

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

HOUSE BILL NO. 2300

By: Stanley

AS INTRODUCED

An Act relating to mental health; amending 43A O.S.

1991, Section 10-105, as last amended by Section 8, Chapter 195, O.S.L. 1997 (43A O.S. Supp. 1997, Section 10-105), which relates to vulnerable adults; clarifying process of notification for certain abuse reports to the State Department of Health; removing certain notice requirements to owners and operators of certain facilities; repealing 43A O.S. 1991, Sections 3-418, 3-419, 3-420 and 3-421, which relate to licnesing authority and other responsibilities and duties relating to alcohol and drug abuse facilities; 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, as last amended by Section 8, Chapter 195, O.S.L. 1997 (43A O.S. Supp. 1997, Section 10-105), is amended to read as follows:

Section 10-105. A. Upon receiving a report of alleged abuse, neglect, or exploitation of a vulnerable adult pursuant to the provisions of the Protective Services for Vulnerable Adults Act,

~~Section 10-101 et seq. of this title,~~ the Department of Human Services shall make a prompt and thorough investigation.

B. The investigation by the Department shall include:

1. Every reasonable effort to notify the next of kin of the vulnerable adult who may be in need of protective services;

2. Diagnostic evaluation to determine whether the person needs protective services;

3. Any photographs necessary to document injuries or conditions which have resulted or may result in an injury or serious harm to the person;

4. A statement of the least restrictive services needed;

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

6. Whether the person would be capable of obtaining services for self and could bear the cost or would be eligible for services from the Department;

7. Whether a caretaker would be willing to provide services or would agree to their provision;

8. Whether the person desires the services;

9. A statement of any follow-up investigation or monitoring of the services that may be needed; and

10. Other relevant information.

C. The Department's investigation shall include a visit to the home or other place of residence of the person who is the subject of the report, a private interview with such 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 or other place of residence of a person believed to be a vulnerable adult in need of protective services, or is denied a private interview, or documentation, or access to records, or other information relating to such person as provided by paragraph 10 of subsection B of this section, the Department may

petition the court for an order allowing entry or access. The petition shall state the name and address of the person who is the subject of the report 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. The Department shall make all reasonable attempts to interview the caretaker or other persons alleged to be involved in the abuse, neglect or exploitation in order to enhance service provision and to prevent additional incidents of abuse, neglect or exploitation.

D. When a report is received pertaining to a vulnerable adult who has a guardian, a copy of the report of the Department shall be filed with the court to which the guardian is accountable.

E. ~~1.~~ In the case of a report pertaining to a vulnerable adult who is a resident of a licensed nursing facility or licensed residential care facility, the Department shall immediately notify the State Department of Health of such report in writing for investigation pursuant to the provisions of the Nursing Home Care Act, the Residential Care Act, and the Continuum of Care and Assisted Living Act, 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 1-1901 et seq. of Title 63 of the Oklahoma Statutes, and the Residential Care Act, Section 1-820 et seq. of Title 63 of the Oklahoma Statutes.

~~2. When a report is received pertaining to a vulnerable adult residing in a facility other than a home, where persons are employed to provide care and those employees have been named as persons responsible for the abuse, neglect or exploitation, the Department~~

~~shall forward its findings to the owner or operator of the facility  
to prevent further incidents.~~

SECTION 2. REPEALER 43A O.S. 1991, Sections 3-418, 3-419, 3-420 and 3-421, are hereby repealed.

SECTION 3. This act shall become effective November 1, 1998.

46-2-9245 KSM