

STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

SENATE BILL NO. \_\_\_\_\_

By: Cain

AS INTRODUCED

An Act relating to mental health; amending 43A O.S. 1991, Section 10-110, as last amended by Section 6, Chapter 298, O.S.L. 1998 (43A O.S. Supp. 1998, Section 10-110), which relates to confidentiality of records and reports; requiring promulgation of rules establishing specified administrative procedures; and declaring an emergency.

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

SECTION 728. AMENDATORY 43A O.S. 1991, Section 10-110, as last amended by Section 6, Chapter 298, O.S.L. 1998 (43A O.S. Supp. 1998, Section 10-110), is amended to read as follows:

Section 10-110. A. The reports, records, and working papers used or developed in an investigation of the circumstances of a vulnerable adult pursuant to the provisions of the Protective Services for Vulnerable Adults Act are confidential and may be disclosed only pursuant to rules promulgated by the Commission for Human Services, by order of the court or as otherwise provided by this section.

B. Department of Human Services agency records pertaining to a vulnerable adult may be inspected and their contents disclosed without a court order to the following persons upon showing of proper credentials and pursuant to their lawful duties:

1. A district attorney and the employees of an office of a district attorney in the course of their official duties pursuant to this title or the prosecution of crimes against vulnerable adults;

2. The attorney representing a vulnerable adult who is the subject of a proceeding pursuant to the provisions of the Protective Services for Vulnerable Adults Act;

3. Employees of a law enforcement agency of this or another state and employees of protective services for vulnerable adults of another state;

4. A physician who has before him or her a vulnerable adult whom the physician reasonably suspects may have been abused or neglected or any health care or mental health professionals involved in the evaluation or treatment of the vulnerable adult or guardian, custodian or other family members of the vulnerable adult; provided the Department may limit such disclosures to summaries or to information directly necessary for the purpose of such disclosure;

5. Any public or private agency or person authorized by the Department to diagnose, or provide care, treatment, supervision or other services to a vulnerable adult who is the subject of a report or record of vulnerable adult abuse or neglect; provided the Department may limit such disclosure to summaries or to information directly necessary for the purpose of such disclosure; and

6. Any person or agency for research purposes, if all of the following conditions are met:

- a. the person or agency conducting such research is employed by the State of Oklahoma or is under contract with this state and is authorized by the Department of Human Services to conduct such research, and
- b. the person or agency conducting the research ensures that all documents containing identifying information are maintained in secure locations and access to such documents by unauthorized persons is prohibited; that no identifying information is included in documents generated from the research conducted; and that all

identifying information is deleted from documents used in the research when the research is completed.

C. Nothing in this section shall be construed as prohibiting the Department from disclosing such confidential information as may be necessary to secure appropriate care, treatment or protection of a vulnerable adult alleged to be abused or neglected.

D. Records and their contents disclosed pursuant to this section shall remain confidential. The use of such information shall be limited to the purposes for which disclosure is authorized. It shall be unlawful and a misdemeanor for any person to furnish any record or disclose any information contained therein for any unauthorized purpose.

E. The Human Services Commission shall promulgate rules establishing administrative procedures for review and disposition of complaints by third parties arising from the provision of protective services to a vulnerable adult by the Department of Human Services.

SECTION 1. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

47-1-752

CJ

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