

1 STATE OF OKLAHOMA

2 1st Session of the 47th Legislature (1999)

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

By: Shurden

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5  
6 AS INTRODUCED

7 An Act relating to mental health; amending 43A  
8 O.S. 1991, Section 10-105, as last amended by  
9 Section 8, Chapter 195, O.S.L. 1997 (43A O.S.  
10 Supp. 1998, Section 10-105), which relates to the  
11 Protective Services for Vulnerable Adults Act;  
12 Expanding scope of investigation; clarifying  
13 language; requiring review of certain plan by a  
14 multidisciplinary team; specifying membership of  
15 team; requiring promulgation of rules; requiring  
16 review of circumstances of vulnerable adult by  
17 certain entity; providing an effective date; and  
18 declaring an emergency.

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

20 SECTION 768. AMENDATORY 43A O.S. 1991, Section 10-105,  
21 as last amended by Section 8, Chapter 195, O.S.L. 1997 (43A O.S.  
22 Supp. 1998, Section 10-105), is amended to read as follows:

23 Section 10-105. A. Upon receiving a report of alleged abuse,  
24 neglect, or exploitation of a vulnerable adult pursuant to the  
25 provisions of the Protective Services for Vulnerable Adults Act,  
26 Section 10-101 et seq. of this title, the Department of Human  
27 Services shall make a prompt and thorough investigation.

28 B. The investigation by the Department shall include:

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

31 2. Notification of the local law enforcement agency;

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

1       ~~3.~~ 4. Any photographs necessary to document injuries or  
2 conditions which have resulted or may result in an injury or serious  
3 harm to the person;

4       ~~4.~~ 5. A statement of the least restrictive services needed;

5       ~~5.~~ 6. Whether services are available from the Department or in  
6 the community and how the services can be provided;

7       ~~6.~~ 7. Whether the person would be capable of obtaining services  
8 for self and could bear the cost or would be eligible for services  
9 from the Department;

10       ~~7.~~ 8. Whether a caretaker would be willing to provide services  
11 or would agree to ~~their~~ provision of services;

12       ~~8.~~ 9. Whether the person desires the services;

13       ~~9.~~ 10. A statement of any follow-up investigation or monitoring  
14 of the services that may be needed; and

15       ~~10.~~ 11. Other relevant information.

16       C. The Department's investigation shall include a visit to the  
17 home or other place of residence of the person who is the subject of  
18 the report, a private interview with such person, and consultation  
19 with persons who have knowledge of ~~the~~ such person's circumstances.  
20 If, in the course of an investigation of this nature, the Department  
21 is denied entrance to the home or other place of residence of a  
22 person believed to be a vulnerable adult in need of protective  
23 services, or is denied a private interview, or documentation, or  
24 access to records, or other information relating to such person as  
25 provided by paragraph ~~10~~ 11 of subsection B of this section, the  
26 Department may petition the court for an order allowing entry or  
27 access. The petition shall state the name and address of the person  
28 who is the subject of the report and shall allege specific facts  
29 sufficient to show that the circumstances of the person are in need  
30 of investigation. If it is necessary to forcibly enter the  
31 premises, the representative of the Department shall make the entry  
32 accompanied by a ~~peace~~ local law enforcement officer. The

1 Department shall make all reasonable attempts to interview the  
2 caretaker or other persons alleged to be involved in the abuse,  
3 neglect or exploitation in order to enhance service provision and to  
4 prevent additional incidents of abuse, neglect or exploitation.

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

8 E. 1. In the case of a report pertaining to a vulnerable adult  
9 who is a resident of a nursing facility or residential care  
10 facility, the Department shall immediately notify the State  
11 Department of Health of such report in writing, and shall forward to  
12 the State Department of Health a copy of the Department's final  
13 investigative report. Nothing herein shall prevent the State  
14 Department of Health from conducting any type of investigation or  
15 taking any appropriate action pursuant to the provisions of the  
16 Nursing Home Care Act, Section 1-1901 et seq. of Title 63 of the  
17 Oklahoma Statutes, and the Residential Care Act, Section 1-820 et  
18 seq. of Title 63 of the Oklahoma Statutes; provided, however, prior  
19 to removal of such vulnerable adult from such person's residence:

20 a. the Department shall cause such plan to remove the  
21 vulnerable adult to be reviewed by a multidisciplinary  
22 team consisting of a local ombudsman, such person's  
23 personal physician or a licensed physician, and a  
24 representative of the local county office. The  
25 Commission for Human Services shall promulgate rules  
26 to enact the provisions of this subparagraph, and

27 b. the Department shall provide for a review of such  
28 person's circumstances by the Advantage Home and  
29 Community Based Waiver Program.

30 2. When a report is received pertaining to a vulnerable adult  
31 residing in a facility other than a home, where persons are employed  
32 to provide care and those employees have been named as persons

1 responsible for the abuse, neglect or exploitation, the Department  
2 shall forward its findings to the owner or operator of the facility  
3 to prevent further incidents.

4 SECTION 1. This act shall become effective July 1, 1999.

5 SECTION 2. It being immediately necessary for the preservation  
6 of the public peace, health and safety, an emergency is hereby  
7 declared to exist, by reason whereof this act shall take effect and  
8 be in full force from and after its passage and approval.

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