

ENGROSSED HOUSE AMENDMENT
TO
ENGROSSED SENATE BILL NO. 803

By: Morgan of the Senate

and

Bonny of the House

(public health and safety - creating the Long-Term
Care Reform and Accountability Act - codification -
emergency)

AMENDMENT NO. 1. Strike the stricken title, enacting clause and
entire bill and insert

"An Act relating to public health and safety and
crimes and punishments; providing short title;
stating purpose and initiatives to accomplish
purpose; amending Section 30, Chapter 4, 1st
Extraordinary Session, O.S.L. 1999, as amended by
Section 2, Chapter 291, O.S.L. 2000 (21 O.S. Supp.
2000, Section 13.1), which relates to required
service of minimum percentage of service; adding
crime to minimum sentencing list; amending 21 O.S.
1991, Section 843.1, as last amended by Section 151,
Chapter 5, 1st Extraordinary Session, O.S.L. 1999
(21 O.S. Supp. 2000, Section 843.1), which relates
to caretakers; modifying certain prohibition;
modifying term; subjecting prison term to minimum
sentencing; creating the Long-term Care Access to
Quality Health Care Task Force; providing for
membership, meetings, compensation, and duties of
the Task Force; specifying duties of the Oklahoma
Health Care Authority and the State Department of
Health; requiring reports; requesting that certain
laws not be altered; providing for codification; and
declaring an emergency.

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 1-1900.1 of Title 63, unless
there is created a duplication in numbering, reads as follows:

A. This act shall be known and may be cited as the "Long-term Care Reform and Accountability Act of 2001".

B. The purpose of the Long-term Care Reform and Accountability Act of 2001 shall be to design, develop and implement policies and procedures that improve the quality of care provided in this state's long-term care delivery system for the elderly and disabled. The purpose of the Long-term Care Reform and Accountability Act of 2001 shall be accomplished through a series of initiatives that may include, but need not be limited to:

1. Creation of a Long-term Care Access to Quality Health Care Task Force; and

2. A long-term care pilot project nursing facility.

SECTION 2. AMENDATORY Section 30, Chapter 4, 1st Extraordinary Session, O.S.L. 1999, as amended by Section 2, Chapter 291, O.S.L. 2000 (21 O.S. Supp. 2000, Section 13.1), is amended to read as follows:

Section 13.1 Persons convicted of ~~first~~:

1. First degree murder as defined in Section 701.9 of this title, ~~robbery~~;

2. Robbery with a dangerous weapon as defined in Section 801 of this title, ~~first~~;

3. First degree rape as defined in Section 1115 of this title, ~~first~~;

4. First degree arson as defined in Section 1401 of this title, ~~first~~;

5. First degree burglary as defined in Section 1436 of this title, ~~bombing~~;

6. Bombing as defined in Section 1767.1 of this title, ~~any~~;

7. Any crime against a child provided for in Section 7115 of Title 10 of the Oklahoma Statutes, ~~forcible~~;

8. Forcible sodomy as defined in Section 888 of this title, ~~child~~;

9. Child pornography as defined in Section 1021.2 or 1021.3 of this title,~~child;~~

10. Child prostitution as defined in Section 1030 of this title,~~lewd;~~

11. Lewd molestation of a child as defined in Section 1123 of this title;or

12. Abuse of a vulnerable adult as defined in Section 10-103 of Title 43A of the Oklahoma Statutes who is a resident of a nursing facility,

shall be required to serve not less than eighty-five percent (85%) of any sentence of imprisonment imposed by the judicial system prior to becoming eligible for consideration for parole. Persons convicted of these offenses shall not be eligible for earned credits or any other type of credits which have the effect of reducing the length of the sentence to less than eighty-five percent (85%) of the sentence imposed.

SECTION 3. AMENDATORY 21 O.S. 1991, Section 843.1, as last amended by Section 151, Chapter 5, 1st Extraordinary Session, O.S.L. 1999 (21 O.S. Supp. 2000, Section 843.1), is amended to read as follows:

Section 843.1 A. 1. No ~~caretaker~~ caregiver or other person shall willfully abuse, neglect, commit sexual abuse, or exploit any person entrusted to the care of ~~the caretaker~~ such caregiver or other person in a nursing facility or other setting, or shall cause, secure, or permit any of these acts to be done.

2. For purposes of this section, the terms "~~caretaker~~ caregiver", "abuse", "neglect", "sexual abuse", and "exploit" shall have the same meaning as such terms are defined and clarified in Section 10-103 of Title 43A of the Oklahoma Statutes.

B. 1. Any person convicted of a violation of this section, except as provided in paragraph 2 of this subsection, shall be guilty of a felony and shall be subject to incarceration in the

custody of the Department of Corrections for a period not to exceed ten (10) years. Such person's term shall further be subject to the provisions of Section 13.1 of this title.

2. Any person convicted of violating the provisions of this section by committing sexual abuse shall be guilty of a felony. Any person convicted of a violation of this paragraph shall be subject to incarceration in the custody of the Department of Corrections for a period not to exceed fifteen (15) years.

3. The fine for a violation of this section shall not be more than Ten Thousand Dollars (\$10,000.00).

C. Consent shall not be a defense for any violation of this section.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-850 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. There is hereby established until December 1, 2006, the Long-term Care Access to Quality Health Care Task Force composed of nine (9) members as follows:

1. Three members to be appointed by the Speaker of the Oklahoma House of Representatives;

2. Three members to be appointed by the President Pro Tempore of the State Senate; and

3. Three members to be appointed by the Governor of the State of Oklahoma.

B. Members shall serve at the pleasure of the appointing authority. A vacancy on the Task Force shall be filled by the original appointing authority.

1. A majority of the members appointed to the Task Force shall constitute a quorum. A majority of the members present at a meeting may act for the Task Force.

2. The Speaker of the House of Representatives shall designate the Chair of the Task Force and President Pro Tempore shall

designate the vice-chair of the Task Force from among the members of the Task Force.

3. The Chair shall convene the first meeting of the Task Force on or before September 1, 2001.

4. The members of the Task Force shall determine meeting dates. Nonlegislative members shall not be compensated for their service but shall be reimbursed by their appointing authorities for necessary expenses incurred in the performance of their duties pursuant to the State Travel Reimbursement Act. Any legislators appointed shall be reimbursed pursuant to Section 456 of Title 74 of the Oklahoma Statutes.

5. The Director, Administrator or Commissioner, as appropriate of each of the following state agencies shall each appoint one or more agency employees to attend the Task Force meetings and provide information, reports, records and other assistance as may be requested by the Task Force:

- a. the Oklahoma Health Care Authority, and
- b. the State Department of Health.

C. The Task Force shall:

1. Develop and recommend to the Oklahoma Health Care Authority a pilot project for new construction of a nursing facility which shall be established within a contiguous county of a major metropolitan area through a waiver of the current certificate of need requirements;

2. Study and evaluate the feasibility of the elimination of the percentages of occupancy requirements in the Long-term Care Certificate of Need Act and rules;

3. Review and make recommendations involving access to health care in Oklahoma nursing facilities;

4. Study the fiscal impact on changes to the Long-term Care Certificate of Need Act and rules on all areas of Oklahoma; and

5. Establish and recommend to the Oklahoma Health Care Authority criteria for the protection of existing facilities within the service area of the pilot project with the advice and assistance of the Oklahoma Health Care Authority and the State Department of Health.

D. The Oklahoma Health Care Authority shall:

1. Establish and implement the pilot project developed by the Task Force;

2. Promulgate rules establishing criteria for the protection of existing facilities within the service area of the pilot project as provided by the Task Force;

3. Accept proposals from entities making application to build such a pilot project facility;

4. Select an entity to participate in the construction and operation of a pilot project facility by January 1, 2002; and

5. Provide assistance to the Task Force in regards to the following:

a. the creation and funding of additional reimbursement methodologies that protect existing facilities within the radius area,

b. fiscal impact studies related to the availability of financing the purchase or construction of nursing facilities, and

c. fiscal impact studies related to the use of state and federal funds and projected costs associated with new construction and the elimination of the Long-term Care Certificate of Need Act.

E. The State Department of Health shall provide assistance to the Task Force in regards to the following:

1. Establishing occupancy studies and trends;

2. Preparing quality of care assessments in the pilot project area; and

3. Preparing staffing studies that take into consideration:

- a. recruitment and retention of staff,
- b. fiscal impact of competition for appropriate nursing facility staff, and
- c. labor market trends.

F. 1. The Task Force shall by December 31 of the years 2001 through 2005 submit an interim report to the Governor and the Speaker of the Oklahoma House of Representatives regarding progress of the Task Force and any findings of the Task Force.

2. The Task Force shall submit a final report to the Governor, the President Pro Tempore of the State Senate and the Speaker of the Oklahoma House of Representatives on or before December 31, 2006, regarding the findings and recommendations of the Task Force.

3. The Task Force findings shall include pilot study information that will draw conclusions to the overall state fiscal impact and the effects of access to health care for all Oklahomans, in the event that there is repeal or changes in the Long-term Care Certificate of Need Act and rules.

4. Until the pilot study findings are final and changes are recommended by the Task Force, it is hereby requested that any future Oklahoma Legislature not and the State Department of Health shall not, unless specifically required by the Legislature, alter the Long-term Care Certificate of Need Act and rules.

SECTION 5. 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."

Passed the House of Representatives the 10th day of April, 2001.

Presiding Officer of the House of
Representatives

Passed the Senate the ____ day of _____, 2001.

Presiding Officer of the Senate