

ENGROSSED HOUSE
BILL NO. 2314

By: Lindley of the House
and
Corn of the Senate

An Act relating to mental health; amending 43A O.S. 2001, Sections 3-313 and 3-314.1, as amended by Sections 15 and 16, Chapter 488, O.S.L. 2002 (43A O.S. Supp. 2003, Section 3-313 and 3-314.1), which relate to domestic violence and sexual assault shelter records; requiring certain reporting; and providing an effective date.

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

SECTION 1. AMENDATORY 43A O.S. 2001, Section 3-313, as amended by Section 15, Chapter 488, O.S.L. 2002 (43A O.S. Supp. 2003, Section 3-313), is amended to read as follows:

Section 3-313. A. The Department of Mental Health and Substance Abuse Services is hereby authorized and directed to enter into agreements and to contract for the shelter and other services as are needed for victims of domestic abuse or sexual assault. Any domestic violence or sexual assault program providing services pursuant to a contract or subcontract with and receiving funds from the Department of Mental Health and Substance Abuse Services, the Board of Mental Health and Substance Abuse Services, or any facility of the Department of Mental Health and Substance Abuse Services shall be subject to the provisions of the Unified Community Mental Health Services Act.

B. 1. Except as otherwise provided by paragraph 2 of this subsection, the case records, case files, case notes, client records, or similar records of a domestic violence or sexual assault program certified by the Department of Mental Health and Substance Abuse Services or of any employee or trained volunteer of a program

regarding an individual who is residing or has resided in the program or who has otherwise utilized or is utilizing the services of a domestic violence or sexual assault program or counselor shall be confidential and shall not be disclosed. For purposes of this paragraph, the term "client records" shall include, but not be limited to, all communications, records, and information regarding clients of domestic violence and sexual assault programs.

2. The case records, case files, or case notes of programs specified in paragraph 1 of this subsection shall be confidential and shall not be disclosed except with the written consent of the individual, or in the case of the individual's death or disability, of the individual's personal representative or other person authorized to sue on the individual's behalf or by court order for good cause shown by the judge in camera.

C. The district court shall not order the disclosure of the address of a domestic violence shelter, the location of any person seeking or receiving services from a domestic violence or sexual assault program, or any other information which is required to be kept confidential pursuant to subsection B of this section.

D. The home address, personal telephone numbers and social security number of board members, staff and volunteers of certified domestic violence and sexual assault programs shall not be construed to be open records pursuant to the Oklahoma Open Records Act.

E. Certified domestic violence shelters and domestic violence and sexual assault programs shall report client services electronically using a unique identifier for services reported as domestic violence and sexual assault services. Certified domestic violence shelters and domestic violence and sexual assault programs shall not be required to electronically report data which:

1. Would disclose the identity of individual receiving domestic violence and/or sexual assault services; or

2. Could increase the risk of harm to the client if reported.

SECTION 2. AMENDATORY 43A O.S. 2001, Section 3-314.1, as amended by Section 16, Chapter 488, O.S.L. 2002 (43A O.S. Supp. 2003, Section 3-314.1), is amended to read as follows:

Section 3-314.1 A. The Board of Mental Health and Substance Abuse Services shall adopt and promulgate rules and standards for certification of domestic violence programs and for private facilities and organizations which offer domestic and sexual assault services in this state. These facilities shall be known as "Certified Domestic Violence Shelters" or "Certified Domestic Violence Programs" or "Certified Sexual Assault Programs" or "Certified Treatment Programs for Batterers", as applicable.

B. Applications for certification as a certified domestic violence shelter, domestic violence program, sexual assault program or treatment program for batterers, pursuant to the provisions of this section, shall be made to the Department of Mental Health and Substance Abuse Services on prescribed forms. The Board, or the Commissioner upon delegation by the Board, may certify the shelter or program for a period of three (3) years subject to renewal as provided in the rules promulgated by the Board. Nothing in this section shall preclude the Department from making inspection visits to a shelter or program to determine contract or program compliance.

C. Licensed physicians, licensed psychologists, licensed social workers, individual members of the clergy, licensed marital and family therapists, licensed behavioral practitioners, and licensed professional counselors shall be exempt from certification requirements; provided, however, these exemptions shall only apply to individual professional persons in their private practice and not to any domestic violence program or sexual assault program operated by such person.

D. Facilities providing services for victims or survivors of domestic abuse or sexual assault and any dependent children of such victims or survivors shall comply with standards adopted by the

Board; provided, that the certification requirements and standards adopted by the Board shall not apply to programs and services offered by the State Department of Health and the Department of Human Services. The domestic violence or sexual assault programs certified pursuant to the provisions of this section shall cooperate with inspection personnel of the state and shall promptly file all reports required by the Department. Failure to comply with rules and standards promulgated by the Board shall be grounds for revocation of certification, after proper notice and hearing.

Certified domestic violence shelters and domestic violence and sexual assault programs shall report client services electronically using a unique identifier for services reported as domestic violence and sexual assault services. Certified domestic violence shelters and domestic violence and sexual assault programs shall not be required to electronically report data which:

1. Would disclose the identity of individual receiving domestic violence and/or sexual assault services; or

2. Could increase the risk of harm to the client if reported.

E. The Department is hereby authorized to collect from each applicant the sum of One Hundred Dollars (\$100.00) annually to help defray the costs incurred in the certification procedure.

SECTION 3. This act shall become effective November 1, 2004.

Passed the House of Representatives the 25th day of February,
2004.

Presiding Officer of the House of
Representatives

Passed the Senate the ____ day of _____, 2004.

Presiding Officer of the Senate