

EHB 2314

THE STATE SENATE  
Thursday, April 8, 2004

ENGROSSED

House Bill No. 2314

As Amended

ENGROSSED HOUSE BILL NO. 2314 - By: LINDLEY of the House and CORN of the Senate.

[ mental health - domestic violence and sexual assault - 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.

1           B. 1. Except as otherwise provided by paragraph 2 of this  
2 subsection, the case records, case files, case notes, client  
3 records, or similar records of a domestic violence or sexual assault  
4 program certified by the Department of Mental Health and Substance  
5 Abuse Services or of any employee or trained volunteer of a program  
6 regarding an individual who is residing or has resided in the  
7 program or who has otherwise utilized or is utilizing the services  
8 of a domestic violence or sexual assault program or counselor shall  
9 be confidential and shall not be disclosed. For purposes of this  
10 paragraph, the term "client records" shall include, but not be  
11 limited to, all communications, records, and information regarding  
12 clients of domestic violence and sexual assault programs.

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

20           C. The district court shall not order the disclosure of the  
21 address of a domestic violence shelter, the location of any person  
22 seeking or receiving services from a domestic violence or sexual

1 assault program, or any other information which is required to be  
2 kept confidential pursuant to subsection B of this section.

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

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

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

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

16 SECTION 2. AMENDATORY 43A O.S. 2001, Section 3-314.1, as  
17 amended by Section 16, Chapter 488, O.S.L. 2002 (43A O.S. Supp.  
18 2003, Section 3-314.1), is amended to read as follows:

19 Section 3-314.1 A. The Board of Mental Health and Substance  
20 Abuse Services shall adopt and promulgate rules and standards for  
21 certification of domestic violence programs and for private  
22 facilities and organizations which offer domestic and sexual assault  
23 services in this state. These facilities shall be known as

1 "Certified Domestic Violence Shelters" or "Certified Domestic  
2 Violence Programs" or "Certified Sexual Assault Programs" or  
3 "Certified Treatment Programs for Batterers", as applicable.

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

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

22 D. Facilities providing services for victims or survivors of  
23 domestic abuse or sexual assault and any dependent children of such

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

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

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

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

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

1           SECTION 3. This act shall become effective November 1, 2004.  
2   COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 3-31-04 - DO  
3   PASS, As Amended.