

STATE OF OKLAHOMA

2nd Session of the 49th Legislature (2004)

HOUSE BILL HB2251:

Gilbert

AS INTRODUCED

An Act relating to aging; creating new title in the Oklahoma Statutes, Title 1A, to be known as Aging Services; specifying legislative intent; creating the Office of Aging Services within the Department of Human Services; defining terms; specifying certain powers, duties and responsibilities; providing for the qualifications, appointment, and responsibilities of the Director of the Office of Aging Services; creating the Elder Rights and Legal Assistance Services Development Division, the State Long-Term Care Ombudsman Division, and the Adult Protective Services Division; providing for certain programs administered by such Office; creating Aging Services Rule Advisory Council; providing duties and responsibilities; providing membership; providing organization, reimbursement and appointments; providing for certain space and staff assistance; providing for certain exceptions; providing for certain rulemaking authority; providing for certain public input; amending 56 O.S. 2001, Section 3100, which relates to duties of Aging Services Division; modifying duties; requiring that certain duties be performed and programs established by the Office of Aging Services within the Department of Human Services; clarifying responsibilities of Elder Rights and Legal Assistance Services Development Division; amending 63 O.S. 2001, Section 1-2212, which relates to the Long-Term Care Ombudsman Act; modifying and adding certain definitions; amending 63 O.S. 2001, Section 1-2213, which relates to the Office of the State Long-Term Care Ombudsman; modifying placement of the State Long-Term Care Ombudsman; requiring certain advice by the Aging Services Rule Advisory Council to the State Long-Term Care Ombudsman; clarifying certain duties and responsibilities of State Long-Term Care Ombudsman and certain representatives of such Ombudsman; clarifying procedures; amending 63 O.S. 2001, Section 1-2214, which relates to liability of State Long-Term Care Ombudsman regarding Governmental Tort Claims Act; clarifying scope of State Long-Term Care Ombudsman; amending 63 O.S. 2001, Section 1-2215, which relates to interference with certain official duties and retaliation or reprisal for filing certain complaints; clarifying certain responsibilities; amending 63 O.S. 2001, Section 1-2216, which relates to rulemaking authority of Commission for Human Services; providing for advice by the Aging Services Rule Advisory Council; amending 56 O.S. 2001, Section 163.1, which relates to local satellite meal sites administered with the Department of Human Services;

providing for certain recommendations; amending 43A O.S. 2001, Section 10-103, as amended by Section 2, Chapter 332, O.S.L. 2003 (43A O.S. Supp. 2003, Section 10-103), which relates to the Protective Services for Vulnerable Adults Act; modifying certain definitions; adding certain definitions; amending 43A O.S. 2001, Section 10-104, as amended by Section 1, Chapter 399, O.S.L. 2003 (43A O.S. Supp. 2003, Section 10-104), which relates to persons required to report abuse, neglect, or exploitation; clarifying certain reporting procedures in certain circumstances; allowing for certain advice by certain Council in the promulgation of rules by certain Commission; amending 43A O.S. 2001, Section 10-105.1, as amended by Section 5, Chapter 332, O.S.L. 2003 (43A O.S. Supp. 2003, Section 10-105.1), which relates to notice of investigation; specifying certain procedures relating to investigation; clarifying certain consent to voluntary services by certain persons; clarifying responsibilities and duties of Adult Protective Services Division; amending 43A O.S. 2001, Section 10-105, as amended by Section 2, Chapter 399, O.S.L. 2003 (43A O.S. Supp. 2003, Section 10-105), which relates to investigation of report; clarifying processes and procedures; clarifying certain notification process under certain circumstances; clarifying certain visitation and interview procedures; clarifying procedures; amending 43A O.S. 2001, Section 10-106, as amended by Section 6, Chapter 332, O.S.L. 2003 (43A O.S. Supp. 2003, Section 10-106), which relates to voluntary protective services; clarifying certain procedures used regarding voluntary protective services; clarifying certain court authorization; amending 43A O.S. 2001, Section 10-107, as amended by Section 7, Chapter 332, O.S.L. 2003 (43A O.S. Supp. 2003, Section 10-107), which relates to involuntary protective services; clarifying procedures used by the Adult Protective Services Division; clarifying when certain payments are to be made; amending 43A O.S. 2001, Section 10-108, as amended by Section 8, Chapter 332, O.S.L. 2003 (43A O.S. Supp. 2003, Section 10-108), which relates to petition for involuntary protective services; clarifying procedures and processes; amending 43A O.S. 2001, Section 10-109, which relates to utilization of available services; clarifying when certain protective services to be used; amending 43A O.S. 2001, Section 10-109a, which relates to uniform policies for the Department of Human Services' employees providing services to vulnerable adults; providing for advice by certain Council; amending 43A O.S. 2001, Section 10-110, which relates to confidentiality of records and reports; amending 43A O.S. 2001, Section 10-111, which relates to district court orders; clarifying procedures used by the Adult Protective Services Division; repealing 56 O.S. 2001, Sections 3001, 3002 and 3003, which relate to Coordination of Services for Older Oklahomans Act; repealing 63 O.S. 2001, Section 1-107.1A, which relates to Eldercare Revolving Fund; repealing 63 O.S. 2001, Section 1-111.1, which relates to Eldercare Program Advisory Committee; providing for

codification; providing for noncodification;  
providing for recodification; providing an effective  
date; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law not to be  
codified in the Oklahoma Statutes reads as follows:

In publishing the cumulative supplements after July 1, 2004, and  
the decennial Oklahoma Statutes, West Publishing Company shall  
include in such supplements and the decennial statutes a new Title  
1A to be designated as "Aging Services".

SECTION 2. NEW LAW A new section of law not to be  
codified in the Oklahoma Statutes reads as follows:

A. The Oklahoma Legislature recognizes the following facts  
concerning the increase in the numbers of older citizens across the  
nation and state:

1. It is projected by the Federal Interagency Forum on Aging  
that, by the year 2030, the number of older Americans who are sixty-  
five (65) years of age and older will exceed 52,000,000 across the  
nation;

2. Recent data indicates that there are about 586,000 persons  
who are sixty (60) years of age or older in the State of Oklahoma  
with projections by the U.S. Census Bureau estimating that this age  
group in our state will almost double by the year 2025; and

3. Census data also projects that, by the year 2020, one in six  
Oklahomans will be at least sixty-five (65) years of age.

B. The Oklahoma Legislature recognizes the importance of  
promoting a high quality of life standard for all Oklahoma's senior  
citizens. The Oklahoma Legislature also supports sound  
administrative and fiscal policies, especially in times when severe  
budget crises exist, by promoting greater cost efficiencies and  
coordination with regard to the delivery of programs and services to  
Oklahoma's senior population.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-101 of Title 1A, unless there is created a duplication in numbering, reads as follows:

As used in this title:

1. "Council" means the Aging Services Rule Advisory Council;
2. "Commission" means the Commission for Human Services;
3. "Department" means the Department of Human Services; and
4. "Office" means the Office of Aging Services.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2-101 of Title 1A, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created the "Office of Aging Services" within the Department of Human Services through which state aging programs and services shall be administered.

B. The Office of Aging Services shall have the following powers, duties and responsibilities:

1. Assist with planning and identify needs with respect to services, program services and activities which are delivered to Oklahoma's older population;

2. Provide services to older Oklahomans through area agencies on aging or through other appropriate agencies, organizations or institutions authorized in accordance with the federal Older Americans Act of 1965, related federal acts and applicable state law;

3. Develop and administer the state plan for the aging required by federal law with the advice of the Aging Services Rule Advisory Council created pursuant to Section 7 of this act and pursuant to policies established by the Commission for Human Services;

4. Serve as an advocate for the aging at all levels of government and provide consultation, assistance and information, including legal development services, to communities, organizations and the general public;

5. Serve as an information and resource referral for older Oklahomans seeking services and advice;

6. Advise and assist the Governor and Legislature in developing policies to meet the needs of senior citizens;

7. Examine plans, budgets, and related documents pertaining to the planning, coordination, and development of programs and services to meet the needs of Oklahoma's aging population;

8. Cooperate with area agencies on aging, other appropriate agencies and organizations and agencies of the federal government in studies and conferences designed to examine the needs of the aging population and to assist in preparing programs and developing facilities to meet the needs of Oklahoma seniors;

9. Administer, through the use of area agencies on aging, or other appropriate agencies, grants, contracts and technical assistance and the training of volunteers in aging issues and advocacy techniques to meet the needs of Oklahoma's senior population;

10. Administer a State Long-Term Care Ombudsman Program pursuant to the policies established by the Commission for Human Services; and

11. Ensure that other state programs such as adult day care, adult protective services, outreach and transportation support services, the Oklahoma Grandparents Initiative and the Family Caregiver Support Program are carried out to the state's aging population.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-101 of Title 1A, unless there is created a duplication in numbering, reads as follows:

The Director of the Office of Aging Services shall be knowledgeable in aging issues and be skilled in and supportive of advocacy efforts on behalf of older Oklahomans and their caregivers. The Director shall be appointed by the Commission for Human

Services. The Director shall have responsibility for administration of the Office of Aging Services.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4-101 of Title 1A, unless there is created a duplication in numbering, reads as follows:

A. The Divisions within the Office of Aging Services are:

1. The Elder Rights and Legal Assistance Services Development Division;

2. The State Long-Term Care Ombudsman Division; and

3. The Adult Protective Services Division.

B. The Office of Aging Services shall administer the following programs:

1. The Oklahoma Aging Advocacy Leadership Academy;

2. The Oklahoma Grandparents Initiative;

3. The Community Expansion of Nutritional Assistance (CENA);

4. The Senior Info-Line;

5. The Senior Service Corps Programs;

6. The Volunteer Service Credit Bank Program;

7. The Older Americans Act Volunteers Program;

8. The Legal Services Development Program;

9. The Long-term Care Ombudsman Program;

10. The Adult Protective Services Program;

11. The Adult Day Services;

12. The Advantage Program;

13. Personal Care Program;

14. The Older Americans Act (OAA) Administration Program;

15. The Congregate and Home-delivered Meals Program;

16. The Outreach Programs;

17. The Health Promotion Program;

18. The Nutrition Education Program;

19. The Transportation Service and Section 5310 Transportation Program;

20. The In-Home Assistance Program;

21. The Legal Services, Issues, and Assistance Program; and

22. The National Family Caregiver Support Program.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-101 of Title 1A, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created the "Aging Services Rule Advisory Council" within the Office of Aging Services. The Aging Services Rule Advisory Council shall consist of nine (9) members. Three members of the Council shall be appointed by the Governor, three shall be appointed by the President Pro Tempore of the Senate, and three members shall be appointed by the Speaker of the House of Representatives. The initial appointments for each gubernatorial and legislative member shall be for progressive terms of one (1) through three (3) years so that only one term expires each calendar year. Subsequent appointments shall be for three-year terms. Members shall continue to serve until their successors are appointed. Any vacancy shall be filled in the same manner as the original appointments. Five members shall constitute a quorum. The Council shall be composed as follows:

1. The Governor shall appoint three members as follows:

- a. two members who are experts and knowledgeable in the area of medicine and gerontology, and
- b. one member who is a representative of the Silver-Haired Legislature Alumni Association;

2. The President Pro Tempore of the Senate shall appoint three members as follows:

- a. two members who advocate and represent senior citizen groups in Oklahoma, and
- b. one member of the American Association of Retired Persons; and

3. The Speaker of the House of Representatives shall appoint three members as follows:

- a. two members representing the Oklahoma State Council on Aging, and
- b. one member representing a long-term care provider.

B. The Council shall elect a chair and a vice-chair from among its members. The Council shall meet as required for rule development, review and recommendation and for such other purposes specified by law. Special meetings may be called by the chair or by the concurrence of any three members.

C. The Aging Services Rule Advisory Council shall:

1. Review all rules relating to the administration and implementation of program services of the Office of Aging Services prior to recommendation of such rules to the Commission for Human Services;

2. Before recommending any permanent rules to the Commission, give the public the opportunity to comment and conduct a hearing if the Council deems it necessary;

3. Have authority to make written recommendations to the Commission which have been concurred upon by at least a majority of the membership of the Council; and

4. Have the authority to provide a public forum for the discussion of issues it considers relevant to its area of jurisdiction, and to:

- a. pass nonbinding resolutions expressing the sense of the Council, and
- b. make recommendations to the Commission concerning the program needs and services for older Oklahomans and the desirability of conducting public meetings and workshops in accordance with program needs and services for older citizens of this state.



D. Members of the Council shall serve without compensation but may be reimbursed expenses incurred in the performance of their duties, as provided pursuant to the State Travel Reimbursement Act. The Council is authorized to utilize the conference rooms located at the Department of Human Services and obtain administrative assistance from the staff of the Office of Aging Services as required.

E. 1. On or after November 1, 2004, the Commission shall promulgate rules which will implement the powers, duties and responsibilities of the Office of Aging Services.

2. Except as provided in this subsection, rules within the jurisdiction of the Council provided for by this section shall be promulgated with the advice of such Council.

3. The advice of the Aging Services Rule Advisory Council shall not be necessary if the Commission determines there is an emergency or preemptive rule needed pursuant to the Administrative Procedures Act.

4. If the Commission adopts any proposed permanent rules on or after November 1, 2004, without the advice of the Council or not in accord with the advice of the Council, the Commission for Human Services shall detail the reasons therefor on the rule report submitted to the Governor and the Legislature pursuant to Article 1 of the Administrative Procedures Act.

SECTION 8. AMENDATORY 56 O.S. 2001, Section 3100, is amended to read as follows:

Section 3100. A. 1. The Office of Aging Services ~~Division of~~ within the Department of Human Services shall, in accordance with the provisions of this section and in consultation with area agencies on aging, establish a program to provide leadership for improving the quality and quantity of legal and advocacy assistance

as a means of ensuring a comprehensive elder rights system for Oklahoma's vulnerable elderly.

2. In carrying out the program established in paragraph 1 of this subsection, the Office of Aging Services ~~Division~~ shall coordinate and provide assistance to area agencies on aging and other entities in Oklahoma that assist older individuals in:

- a. understanding the rights of the older individual,
- b. exercising choice,
- c. benefiting from services and opportunities authorized by law,
- d. maintaining the rights of the older individual and, in particular, of the older individual with reduced capacity, and
- e. resolving disputes.

B. In carrying out the provisions of this section, the Office of Aging Services ~~Division~~ shall:

1. Establish ~~an Office of~~ a Division within the Office of Aging Services called the Elder Rights and Legal Assistance Services Development Division, created pursuant to Section 6 of this act, as the focal point for leadership on elder rights policy review, analysis, and advocacy at the state level, including, but not limited to, such elder rights issues as guardianship, age discrimination, pension and health benefits, insurance, consumer protection, surrogate decision-making, protective services, public benefits, and dispute resolution;

2. Designate a person to administer the program, who shall be known as the State Legal Services Developer and who shall serve on a full-time basis, and other personnel, sufficient to ensure:

- a. leadership in securing and maintaining legal rights for the older individual,
- b. capacity for coordinating the provision of legal assistance,

- c. capacity to provide technical assistance, training and other supportive functions to area agencies on aging, legal assistance providers, ombudsmen, and other persons as appropriate,
- d. capacity to promote financial management services for older individuals at risk of guardianship,
- e. capacity to analyze, comment on, monitor, develop, and promote federal, state, and local laws, rules and regulations, and other governmental policies and actions that pertain to the issues listed in paragraph 1 of this subsection, and
- f. capacity to provide such information as necessary to public and private agencies, legislators, and other persons regarding the issues listed in paragraph 1 of this subsection;

3. Develop, in conjunction with area agencies on aging and legal assistance providers, statewide standards for the delivery of legal assistance to older individuals;

4. Provide technical assistance to area agencies on aging and legal assistance providers to enhance and monitor the quality and quantity of legal assistance to older individuals, including technical assistance in developing plans for targeting services to reach the older individual with greatest economic need and the older individual with greatest social need, with particular attention to low-income minority individuals;

5. Provide consultation to area aging agencies to ensure coordination of their activities with:

- a. the legal assistance initiatives provided under the Older Americans Act,
- b. services provided by the Legal Services Corporation, and

- c. services provided under other state or federal programs, administered at the state and local level, that address the legal assistance needs of older individuals;

6. Provide for the education and training of professionals, volunteers, and older individuals concerning elder rights, the requirements and benefits of specific laws, and methods for enhancing the coordination of services;

7. Promote and provide, as appropriate, education and training for individuals who are or who might become guardians or representative payees of older individuals, including information on:

- a. the powers and duties of guardians or representative payees, and
- b. alternatives to guardianship;

8. Promote the development of, and provide technical assistance concerning:

- a. pro bono legal assistance programs,
- b. state and local bar committees on aging,
- c. legal hot lines,
- d. alternative dispute resolution,
- e. programs and curricula, and
- f. other issues related to the rights and benefits of older individuals;

in law schools and other institutions of higher education, and promote other methods to expand access by older individuals to legal assistance and advocacy and vulnerable elder rights protection activities;

9. Provide for periodic assessment of the status of elder rights in Oklahoma, including analysis of:

- a. (1) the unmet need for assistance in resolving legal problems and benefits-related problems,

- (2) methods for expanding advocacy services,
  - (3) the status of substitute decision-making systems and services, including, but not limited to, systems and services regarding guardianship, representative payeeship, and advance directives,
  - (4) access to courts and the justice system, and
  - (5) the implementation of civil rights and age discrimination laws in Oklahoma, and
- b. problems and unmet needs identified in programs established under the Older Americans Act; and

10. For the purpose of identifying vulnerable elder rights protection activities provided by the entities under this act and coordinating such activities with programs established under the Older Americans Act, develop working agreements with:

- a. state entities, including the state consumer protection agency, the court system, the Attorney General, the state agency responsible for equal employment opportunity initiatives, and other state agencies, and
- b. federal entities, including the Social Security Administration, the Health Care Financing Administration, the Department of Veterans' Affairs, and other federal agencies.

C. As used in this section, the term "representative payee" means the person who enters into a contractual relationship with the United States Social Security Administration to receive a social security recipient's check and to disburse funds to meet the needs of the recipient.

SECTION 9. AMENDATORY 63 O.S. 2001, Section 1-2212, is amended to read as follows:

Section 1-2212. As used in the Long-Term Care Ombudsman Act:

- 1. "Department" means the Department of Human Services;

2. "Division" means the State Long-Term Care Ombudsman

Division;

3. "Office" means the Office of Aging Services;

4. "Program" means the State Long-Term Care Ombudsman Program.

For purposes of the Long-Term Care Ombudsman Act, any area or local ombudsman entity designated by the State Long-Term Care Ombudsman shall be deemed to be a subdivision of ~~this Office~~ the State Long-Term Care Ombudsman Division;

~~2.~~ 5. "Representative" means the State Long-Term Care Ombudsman, and any state, area or local long-term care ombudsman designated by the State Long-Term Care Ombudsman, whether paid or unpaid;

6. "Resident" means any person residing in a long-term care facility; and

7. "State Long-Term Care Ombudsman" means the individual employed by the Department of Human Services to be the chief administrative officer of the ~~Office;~~

~~3. "Department" means the Department of Human Services;~~

~~4. "Representative" means the State Long-Term Care Ombudsman, and any state, area or local long-term care ombudsman designated by the State Long-Term Care Ombudsman, whether paid or unpaid; and~~

~~5. "Resident" means any person residing in a long-term care facility Program.~~

SECTION 10. AMENDATORY 63 O.S. 2001, Section 1-2213, is amended to read as follows:

Section 1-2213. A. There is hereby created within the ~~Department of Human Services~~ the Office of Aging Services, the State Long-Term Care Ombudsman Division. The ~~Office~~ Division, under the auspices and general direction of the State Long-Term Care Ombudsman, shall carry out a long-term care ombudsman program in accordance with the Older Americans Act of 1965, as amended, and in

accordance with federal regulations issued pursuant to the Older Americans Act or as provided by the Long-Term Care Ombudsman Act.

B. The State Long-Term Care Ombudsman ~~shall~~, personally or through representatives ~~of the Office~~, shall:

1. Identify, investigate and resolve complaints that:
  - a. are made by, or on behalf of, residents, and
  - b. relate to action, inaction or decisions, of:
    - (1) providers, or representatives of providers, of long-term care services,
    - (2) public agencies, or
    - (3) health and social service agencies,

that may adversely affect the health, safety, welfare or rights of the residents;

2. Provide services to assist the residents in protecting their health, safety, welfare and rights;

3. Inform residents about means of obtaining services offered by providers or agencies;

4. Ensure that the residents have regular and timely access to the services provided through the ~~Office~~ Program;

5. Ensure that the residents and complainant receive timely responses from the ~~Office~~ Program and representatives of the ~~Office~~ Program regarding complaints;

6. Represent the interests of residents before governmental agencies and seek administrative, legal and other remedies to protect the health, safety, welfare and rights of the residents;

7. Provide administrative and technical assistance to area or local ombudsman entities to assist the entities in participating in the State Long-Term Care Ombudsman Program;

8. a. analyze, comment on and monitor the development and implementation of federal, state and local laws, rules and other government policies and actions that pertain to the health, safety, welfare and rights of the

residents, with respect to the adequacy of long-term care facilities and services in this state,

b. recommend any changes in such laws, rules, policies and actions as the Office determines to be appropriate, and

c. facilitate public comment on the laws, rules, policies and actions;

9. a. provide for training representatives of the ~~Office~~ State Long-Term Care Ombudsman Division,

b. promote the development of citizen organizations, to participate in the State Long-Term Care Ombudsman Program, and

c. provide technical support for the development of resident and family councils to protect the well-being and rights of residents; and

10. Carry out such other activities as the Commission for Human Services determines to be appropriate.

C. 1. In carrying out the duties of the ~~Office~~ State Long-Term Care Ombudsman Division, the State Long-Term Care Ombudsman may designate an entity as an area or local Ombudsman entity, and may designate an employee or volunteer to represent the entity.

2. An individual so designated shall, in accordance with the State Long-Term Care Ombudsman and with the policies and procedures established by the Office and Commission for Human Services with the advice of the Aging Services Rule Advisory Council, carry out such duties and activities as required by the State Long-Term Care Ombudsman pursuant to the authority granted by the Long-Term Care Ombudsman Act and rules promulgated by the Commission thereto.

3. Entities eligible to be designated as area or local Ombudsman entities, and individuals eligible to be designated as representatives of such entities, shall:



- a. have demonstrated capability to carry out the responsibilities of the ~~Office~~ State Long-Term Care Ombudsman Division,
- b. be free of conflicts of interest,
- c. in the case of the entities, be public or nonprofit private entities, and
- d. meet such additional requirements as the Ombudsman may specify.

D. 1. In accordance with the Older Americans Act of 1965, as amended and in accordance with federal regulations issued pursuant thereto, or as otherwise provided by the Long-Term Care Ombudsman Act, the State Long-Term Care Ombudsman and representatives of the ~~Office~~ State Long-Term Care Ombudsman Division shall have:

- a. access to long-term care facilities and residents,
- b. (1) access to review the medical and social records of a resident, if:
  - (a) the representative of the ~~Office~~ State Long-Term Care Ombudsman Division has the permission of the resident, or the legal representative of the resident, or
  - (b) the resident is unable to consent to the review and has no legal representative and the representative of the ~~Office~~ State Long-Term Care Ombudsman Division obtains the approval of the State Long-Term Care Ombudsman, or
- (2) access to the records as is necessary to investigate a complaint if:
  - (a) a legal guardian of the resident refuses to give the permission,
  - (b) a representative of the ~~Office~~ State Long-Term Care Ombudsman Division has reasonable

cause to believe that the guardian is not acting in the best interests of the resident, and

- (c) the representative obtains the approval of the State Long-Term Care Ombudsman,
- c. access to the administrative records, policies and documents, to which the residents have, or the general public has access, of long-term care facilities, and
- d. access to copies of all licensing and certification records maintained by the Department or any other agency of this state with respect to long-term care facilities.

2. For purposes of this subsection, the term "representative of the ~~Office~~ State Long-Term Care Ombudsman Division" shall not include any unpaid or volunteer state, area, or local ombudsman.

SECTION 11. AMENDATORY 63 O.S. 2001, Section 1-2214, is amended to read as follows:

Section 1-2214. A. For purposes of the Governmental Tort Claims Act, any state, area or local long-term care ombudsman shall be deemed to be an employee of this state and as such shall not be personally liable for any act or omission made within the "scope of employment", as such term is defined by The Governmental Tort Claims Act.

B. 1. The Department of Human Services shall assure that adequate legal counsel is available to the Office of the State Long-Term Care Ombudsman for the advice and consultation needed to protect the health, safety, welfare and rights of residents, and that legal representation is provided to any representative of the ~~Office~~ State Long-Term Care Ombudsman Division:

- a. against whom suit or other legal action is brought in connection with any act or omission of a representative made within the scope of employment, or

- b. to assist the ombudsman and representatives of the Office State Long-Term Care Ombudsman Division in the performance of their official duties.

2. The provisions of this section shall not be construed to require or authorize any legal counsel provided by the Department of Human Services to represent any resident of a nursing facility in an individual capacity.

SECTION 12. AMENDATORY 63 O.S. 2001, Section 1-2215, is amended to read as follows:

Section 1-2215. A. No person shall willfully interfere with a representative of the Office of the State Long-Term Care Ombudsman in the performance of official duties.

B. No person shall engage in retaliation or reprisal against any resident or employee of a long-term care facility or other entity for having filed a complaint with or provided information to the Office State Long-Term Care Ombudsman Division.

C. Any person convicted of violating any provisions of this section shall be guilty of a misdemeanor.

SECTION 13. AMENDATORY 63 O.S. 2001, Section 1-2216, is amended to read as follows:

Section 1-2216. A. The Commission for Human Services shall promulgate rules, with the advice of the Aging Services Rule Advisory Council, regarding:

1. The powers and official duties of the State Long-Term Care Ombudsman consistent with applicable federal law and rules or as provided by the Long-Term Care Ombudsman Act;

2. Minimum qualifications for persons to serve as representatives of the Office of the State Long-Term Care Ombudsman;

3. Initial and continuing training requirements for ombudsman staff and volunteers;

4. Procedures to ensure that officers, employees or other representatives of the Office State Long-Term Care Ombudsman

Division are not subject to a conflict of interest which would impair their ability to carry out their official duties in an impartial manner; and

5. The disclosure by the State Long-Term Care Ombudsman or area or local Ombudsman entities of files maintained by the State Long-Term Care Ombudsman Program. Such rules shall:

- a. provide that such files and records may be disclosed only at the discretion of the State Long-Term Care Ombudsman or the person designated by the State Long-Term Care Ombudsman to disclose the files and records, and
- b. prohibit the disclosure of the identity of any complainant or resident with respect to whom the ~~Office~~ State Long-Term Care Ombudsman Division maintains such files or records unless:
  - (1) the complainant or resident, or the legal representative of the complainant or resident, consents to the disclosure and the consent is given in writing,
  - (2) (a) the complainant or resident gives consent orally, and  
(b) the consent is documented contemporaneously in a writing made by a State Long-Term Care Ombudsman representative of the ~~Office~~ State Long-Term Care Ombudsman Division in accordance with such rules as the Commission shall promulgate, or
  - (3) the disclosure is required by court order.

B. The Oklahoma State Council on Aging, established by the Commission for Human Services to review, monitor and evaluate programs targeted to older persons, shall serve in an advisory

capacity to the State Long-Term Care Ombudsman through establishment of a committee with equal provider and consumer representation.

SECTION 14. AMENDATORY 56 O.S. 2001, Section 163.1, is amended to read as follows:

Section 163.1 The Department of Human Services in conjunction with recommendations by the Office of Aging Services shall authorize the establishment of local satellite meal sites for the purpose of encouraging older Oklahomans to congregate in order to eat meals prepared at another location and delivered to the local satellite meal site.

~~The Department of Human~~ Office of Aging Services with the assistance of the Aging Services Rule Advisory Council and with the cooperation of the State Fire Marshal and the Oklahoma State Department of Health shall adopt and promulgate standards for the establishment of such satellite meal sites so as to comply with any applicable fire and health code based on occupancy and use of the site. It is the intention of the Legislature that such standards shall be adequate to protect the health and safety of the persons congregating at satellite meal sites but also which will authorize and allow the establishment of the satellite meal sites by the Department, and which will encourage the use of the satellite meal sites for meal delivery services to older Oklahomans.

SECTION 15. AMENDATORY 43A O.S. 2001, Section 10-103, as amended by Section 2, Chapter 332, O.S.L. 2003 (43A O.S. Supp. 2003, Section 10-103), is amended to read as follows:

Section 10-103. A. When used in the Protective Services for Vulnerable Adults Act:

1. "Protective services" means services which are necessary to aid a vulnerable adult in meeting the essential requirements for mental or physical health and safety that the vulnerable adult is unable to provide or obtain without assistance. The term "protective services" includes but is not limited to services

provided to or obtained for such person in order to prevent or remedy the abuse, neglect, or exploitation of such person;

2. "Services which are necessary to aid an individual to meet essential requirements for mental or physical health and safety" include, but shall not be limited to:

- a. the identification of vulnerable adults in need of the services,
- b. the provision of medical care for physical and mental health needs,
- c. the provision of social services assistance in personal hygiene, food, clothing, and adequately heated and ventilated shelter,
- d. protection from health and safety hazards,
- e. protection from physical mistreatment,
- f. guardianship referral,
- g. outreach programs, and
- h. the transportation necessary to secure any of such services.

The term shall not include taking the person into physical custody without the consent of the person except as provided for in Sections ~~10-107~~ 20 and ~~10-108~~ 21 of this ~~title~~ act, and the evaluation, monitoring, and provision of protective placements;

3. "Meet essential requirements for mental or physical health and safety" means those actions necessary to provide the health care, food, shelter, clothing, personal hygiene and other care without which physical injury or illness to the vulnerable adult is likely to occur;

4. "Incapacitated person" means:

- a. any person eighteen (18) years of age or older:
  - (1) who is impaired by reason of mental or physical illness or disability, dementia or related

disease, mental retardation, developmental disability or other cause, and

(2) whose ability to receive and evaluate information effectively or to make and to communicate responsible decisions is impaired to such an extent that such person lacks the capacity to manage his or her financial resources or to meet essential requirements for his or her mental or physical health or safety without assistance from others, or

b. a person for whom a guardian, limited guardian, or conservator has been appointed pursuant to the Oklahoma Guardianship and Conservatorship Act;

5. "Vulnerable adult" means an individual who is an incapacitated person or who, because of physical or mental disability, incapacity, or other disability, is substantially impaired in the ability to provide adequately for the care or custody of himself or herself, or is unable to manage his or her property and financial affairs effectively, or to meet essential requirements for mental or physical health or safety, or to protect himself or herself from abuse, verbal abuse, neglect, or exploitation without assistance from others;

6. "Caretaker" means a person who has:

- a. the responsibility for the care of a vulnerable adult or the financial management of the resources of a vulnerable adult as a result of a family relationship,
- b. assumed the responsibility for the care of a vulnerable adult voluntarily, by contract, or as a result of the ties of friendship, or
- c. been appointed a guardian, limited guardian, or conservator pursuant to the Oklahoma Guardianship and Conservatorship Act;

7. "Department" means the Department of Human Services;

8. "Division" means the Adult Protective Services Division within the Office of Aging Services;

9. "Office" means the Office of Aging Services;

10. "Representative" means a person designated by the Administrator of the Adult Protective Services Division;

11. "Abuse" means causing or permitting:

- a. the infliction of physical pain, injury, sexual abuse, sexual exploitation, unreasonable restraint or confinement, or mental anguish, or
- b. the deprivation of nutrition, clothing, shelter, health care, or other care or services without which serious physical or mental injury is likely to occur to a vulnerable adult by a caretaker or other person providing services to a vulnerable adult;

~~9.~~ 12. "Exploitation" or "exploit" means an unjust or improper use of the resources of a vulnerable adult for the profit or advantage, pecuniary or otherwise, of a person other than the vulnerable adult through the use of undue influence, coercion, harassment, duress, deception, false representation or false pretense;

~~10.~~ 13. "Neglect" means:

- a. the failure to provide protection for a vulnerable adult who is unable to protect his or her own interest,
- b. the failure to provide a vulnerable adult with adequate shelter, nutrition, health care, or clothing, or
- c. negligent acts or omissions that result in harm or the unreasonable risk of harm to a vulnerable adult through the action, inaction, or lack of supervision by a caretaker providing direct services;



~~11.~~ 14. "Sexual abuse" means:

- a. oral, anal, or vaginal penetration of a vulnerable adult by or through the union with the sexual organ of a caretaker or other person providing services to the vulnerable adult, or the anal or vaginal penetration of a vulnerable adult by a caretaker or other person providing services to the vulnerable adult with any other object, or
- b. for the purpose of sexual gratification, the touching, feeling or observation of the body or private parts of a vulnerable adult by a caretaker or other person providing services to the vulnerable adult, or
- c. indecent exposure by a caretaker or other person providing services to the vulnerable adult;

~~12.~~ 15. "Indecent exposure" means forcing or requiring a vulnerable adult to:

- a. look upon the body or private parts of another person or upon sexual acts performed in the presence of the vulnerable adult, or
- b. touch or feel the body or private parts of another;

~~13.~~ 16. "Self-neglect" means the action or inaction of a vulnerable adult which causes that person to fail to meet the essential requirements for physical or mental health and safety due to the vulnerable adult's lack of awareness, incompetence or incapacity;

~~14.~~ 17. "Sexual exploitation" includes, but is not limited to, a caretaker's causing, allowing, permitting or encouraging a vulnerable adult to engage in prostitution or in the lewd, obscene, or pornographic photographing, filming or depiction of the vulnerable adult as those acts are defined by state law; and

~~15.~~ 18. "Verbal abuse" means the use of words, sounds, or other communication including, but not limited to, gestures, actions or

behaviors, by a caretaker or other person providing services to a vulnerable adult that are likely to cause a reasonable person to experience humiliation, intimidation, fear, shame or degradation.

B. Nothing in this section shall be construed to mean a vulnerable adult is abused or neglected for the sole reason the vulnerable adult, in good faith, selects and depends upon spiritual means alone through prayer, in accordance with the practices of a recognized religious method of healing, for the treatment or cure of disease or remedial care, or a caretaker or other person responsible, in good faith, is furnishing such vulnerable adult spiritual means alone through prayer, in accordance with the tenets and practices of a recognized church or religious denomination, for the treatment or cure of disease or remedial care in accordance with the practices of or express consent of the vulnerable adult.

SECTION 16. AMENDATORY 43A O.S. 2001, Section 10-104, as amended by Section 1, Chapter 399, O.S.L. 2003 (43A O.S. Supp. 2003, Section 10-104), is amended to read as follows:

Section 10-104. A. Any person having reasonable cause to believe that a vulnerable adult is suffering from abuse, neglect, or exploitation shall make a report as soon as the person is aware of the situation to:

1. The Department of Human Services; or
2. The municipal police department or sheriff's office in the county in which the suspected abuse, neglect, or exploitation occurred.

B. Persons required to make reports pursuant to this section shall include, but not be limited to:

1. Physicians;
2. Operators of emergency response vehicles and other medical professionals;
3. Social workers and mental health professionals;
4. Law enforcement officials;

5. Staff of domestic violence programs;
6. Long-term care facility personnel; and
7. Other health care professionals.

C. 1. If the report is not made in writing in the first instance, as soon as possible after it is initially made by telephone or otherwise, the report shall be reduced to writing by ~~the Department of Human~~ a representative of the Adult Protective Services Division, in accordance with rules promulgated by the Commission for Human Services with the advice of the Aging Services Rule Advisory Council, or the local municipal police or sheriff's department whichever entity received the initial report. The report shall contain the following information:

- a. the name and address of the vulnerable adult,
- b. the name and address of the caretaker, guardian, or person having power of attorney over the vulnerable adult's resources if any,
- c. a description of the current location of the vulnerable adult,
- d. a description of the current condition of the vulnerable adult, and
- e. a description of the situation which may constitute abuse, neglect or exploitation of the vulnerable adult.

2. If federal law specifically prohibits the disclosure of any of the information required by this subsection, that information may be excluded from the report.

D. If the initial report is made to the local municipal police department or sheriff's office, such police department or sheriff's office shall notify, as soon as possible, the ~~Department of Human~~ Adult Protective Services Division or a representative of such Division of its investigation.

E. Any person who knowingly and willfully fails to promptly report any abuse, neglect, or exploitation as required by the provisions of subsection A of this section, upon conviction, shall be guilty of a misdemeanor punishable by imprisonment in the county jail for a term not exceeding one (1) year or by a fine of not more than One Thousand Dollars (\$1,000.00), or by both such fine and imprisonment.

F. 1. Any person participating in good faith and exercising due care in the making of a report pursuant to the provisions of this section shall have immunity from any civil or criminal liability that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from the report.

2. The same immunity from any civil or criminal liability shall also be extended to previous employers of a person employed to be responsible for the care of a vulnerable adult, who in good faith report to new employers or prospective employers of such caretaker any misconduct of the caretaker including, but not limited to, abuse, neglect or exploitation of a vulnerable adult, whether confirmed or not.

G. Any person who willfully or recklessly makes a false report shall be civilly liable for any actual damages suffered by the person being reported and for any punitive damages set by the court or jury which may be allowed in the discretion of the court or jury.

H. 1. Every physician or other health care professional making a report concerning the abuse, neglect or exploitation of a vulnerable adult, as required by this section, or examining a vulnerable adult to determine the likelihood of abuse, neglect or exploitation, and every hospital in which a vulnerable adult is examined or treated for abuse, neglect or exploitation shall disclose necessary health information related to the case and provide, upon request by either the Department of Human Services or

the local municipal police or sheriff's department receiving the initial report, copies of the results or the records of the examination on which the report was based, and any other clinical notes, x-rays or photographs and other health information which is related to the case if:

- a. the vulnerable adult agrees to the disclosure of the health information, or
- b. the individual is unable to agree to the disclosure of health information because of incapacity; and
  - (1) the requesting party represents that the health information for which disclosure is sought is not intended to be used against the vulnerable adult in a criminal prosecution but to provide protective services pursuant to the Protective Services for Vulnerable Adults Act,
  - (2) the disclosure of the information is necessary to conduct an investigation into the alleged abuse, neglect or exploitation of the vulnerable adult subject to the investigation, and
  - (3) immediate enforcement activity that depends upon the disclosure:
    - (a) is necessary to protect the health, safety and welfare of the vulnerable adult because of incapacity, or
    - (b) would be materially and adversely affected by waiting until the vulnerable adult is able to agree to the disclosure.

2. If federal law specifically prohibits the disclosure of any of the information required by this subsection, that information may be excluded from the disclosed health information.

I. After investigating the report, either ~~the county office of~~ a representative of the Adult Protective ~~the Department of Human~~

Services Division or the municipal police department or sheriff's office, as appropriate, shall forward its findings to the office of the district attorney in the county in which the suspected abuse, neglect, or exploitation occurred.

J. Any state or county medical examiner or physician who has reasonable cause to suspect that the death of any vulnerable adult may be the result of abuse or neglect as defined by Section 10-103 of this title shall make a report to the district attorney or other law enforcement official of the county in which the death occurred. The report shall include the name of the person making the report, the name of the deceased person, the facts or other evidence supporting such suspicion, and any other health information that may be of assistance to the district attorney in conducting an investigation into the matter.

K. No employer shall terminate the employment, prevent or impair the practice or occupation of or impose any other sanction on any employee solely for the reason that the employee made or caused to be made a report or cooperated with an investigation pursuant to the Protective Services for Vulnerable Adults Act. A court, in addition to other damages and remedies, may assess reasonable attorney fees against an employer who has been found to have violated the provisions of this subsection.

SECTION 17. AMENDATORY 43A O.S. 2001, Section 10-105.1, as amended by Section 5, Chapter 332, O.S.L. 2003 (43A O.S. Supp. 2003, Section 10-105.1), is amended to read as follows:

Section 10-105.1 A. As soon as possible after initiating an investigation of a referral regarding a vulnerable adult, ~~the Department~~ a representative of the Adult Protective Services Division shall provide to the caretaker of the alleged victim, the legal guardian, and next of kin of the vulnerable adult notification including a brief oral summary and easily understood written description of the investigation process, whether or not the

caretaker, guardian or next of kin is alleged to be the perpetrator of the abuse, neglect or exploitation of the vulnerable adult.

B. If the vulnerable adult retains capacity to consent to voluntary services, and does not wish for a caretaker or next of kin to receive notification of the investigation, the ~~Department~~ Adult Protective Services Division shall abide by wishes of the vulnerable adult.

C. The notification specified by subsection A of this section shall include:

1. A statement that the investigation is being undertaken by the ~~Department of Human~~ Adult Protective Services Division pursuant to the requirements of the Protective Services for Vulnerable Adults Act in response to a report of abuse, neglect or exploitation and shall include the name and office telephone number of the ~~Department~~ Adult Protective Services Division representative with primary responsibility for the investigation;

2. A statement that the identity of the person who reported the incident of abuse is confidential and may not even be known to the ~~Department~~ or the Adult Protective Services Division since the report could have been made anonymously;

3. A statement that the investigation is required by law to be conducted in order to enable the ~~Department of Human Services~~ or the Adult Protective Services Division to identify incidents of abuse, neglect or exploitation in order to provide protective or preventive social services to vulnerable adults who are in need of such services;

4. An explanation of the procedures of the ~~Department of Human~~ Adult Protective Services Division for conducting an investigation of alleged abuse, neglect or exploitation, including:

a. a statement that the alleged victim of abuse, neglect or exploitation is the ~~Department's~~ Adult Protective

Services Division's primary client in such an investigation,

- b. a statement that findings of all investigations are provided to the office of the district attorney, and
- c. a statement that law enforcement may conduct a separate investigation to determine whether a criminal violation occurred;

5. An explanation of services which may be provided as a result of the ~~Department's~~ Adult Protective Services Division's investigation, including:

- a. a statement that the caretaker, legal guardian and next of kin will be involved in the process of developing a plan of services for the vulnerable adult insofar as that involvement is consistent with the best interests of the vulnerable adult,
- b. a statement that voluntary services may be provided or arranged for based on the adult client's needs, desires and acceptance, and
- c. a statement that involuntary services may be provided through the judicial system when immediate services are needed to preserve the life of the vulnerable adult and physical health or preserve the resources of the vulnerable adult which may later be needed to provide care for the vulnerable adult;

6. A statement that, upon completion of the investigation, the identified caretaker, legal guardian and next of kin will receive a letter from the Department which will inform such caretaker, legal guardian and next of kin:

- a. that the Department has found insufficient evidence of abuse, neglect or exploitation, or



- b. that there appears to be probable cause to suspect the existence of abuse, neglect or exploitation in the judgment of the Department, and
- c. the recommendations of the Department concerning the vulnerable adult;

7. The procedures concerning the process the caretaker, legal guardian and next of kin may use to acquire access to the vulnerable adult in the event the vulnerable adult is removed from the residence of the vulnerable adult and the circumstances under which access may be obtained;

8. The procedures to follow if there is a complaint regarding the actions of the Department and the procedures to request a review of the findings made by the Department during or at the conclusion of the investigation;

9. Information specifying that if the caretaker, legal guardian and next of kin of the vulnerable adult have any questions as to their legal rights, that such persons have a right to seek legal counsel;

10. References to the statutory and regulatory provisions governing abuse, neglect or exploitation and how the caretaker, legal guardian and next of kin may obtain copies of those provisions; and

11. An explanation that the caretaker, legal guardian and next of kin may review specific information gathered during the investigation and pertaining to the service needs of the vulnerable adult subject to the requirements and exceptions provided in Section ~~10-110~~ 24 of this ~~title~~ act.

SECTION 18. AMENDATORY 43A O.S. 2001, Section 10-105, as amended by Section 2, Chapter 399, O.S.L. 2003 (43A O.S. Supp. 2003, Section 10-105), is amended to read as follows:

Section 10-105. A. Upon receiving a report of alleged abuse, neglect, or exploitation of a vulnerable adult pursuant to the

provisions of the Protective Services for Vulnerable Adults Act, the ~~Department of Human~~ Adult Protective Services Division shall make a prompt and thorough investigation.

B. The investigation by the ~~Department~~ Adult Protective Services Division shall include:

1. Notification of local law enforcement agency. Upon the request of a law enforcement agency, the ~~Department~~ Adult Protective Services Division shall submit copies of any results or records of an examination on the vulnerable adult who is alleged to have been abused, neglected, or exploited and any other clinical notes, x-rays, photographs, or previous or current records relevant to the case;

2. Any findings of abuse, neglect, or exploitation of a vulnerable adult shall also be sent to any state agency with concurrent jurisdiction over persons or issues identified in the investigation including, but not limited to, where appropriate, the State Department of Health, the Oklahoma Board of Nursing, or any other appropriate state licensure or certification board, agency, or registry;

3. Every reasonable effort to locate and notify the caretaker, legal guardian and next of kin of the vulnerable adult who may be in need of protective services pursuant to Section ~~10-105.1~~ 17 of this ~~title~~ act;

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

5. Any photographs necessary to document injuries or conditions which have resulted or may result in an injury or serious harm to the person;

6. A statement of the least restrictive services needed;

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

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

9. Whether a caretaker or legal guardian would be willing to provide services or would agree to their provision;

10. Whether the person desires the services;

11. A statement of any follow-up investigation or monitoring of the services that may be needed; and

12. Other relevant information.

C. 1. ~~The Department's~~ Adult Protective Services Division's investigation shall include a visit to the home or other place of residence of the person who is the subject of the report, a private interview with such person, and consultation with persons who have knowledge of the circumstances. If, in the course of an investigation of this nature, ~~the Department~~ a representative of the Adult Protective Services Division is denied entrance to the home or other place of residence of a person believed to be a vulnerable adult in need of protective services, or is denied a private interview, or documentation, or access to records, or other information relating to such person as provided by paragraph 11 of subsection B of this section, the Department may petition the court for an order allowing entry or access.

2. The petition shall state the name and address of the person who is the subject of the report and shall allege specific facts sufficient to show that the circumstances of the person are in need of investigation.

3. If it is necessary to forcibly enter the premises, the representative of the ~~Department~~ Adult Protective Services Division shall make the entry accompanied by a peace officer.

4. ~~The Department~~ A representative of the Adult Protective Services Division shall make all reasonable attempts to interview the caretaker or other persons alleged to be involved in the abuse,

neglect or exploitation in order to enhance service provision and to prevent additional incidents of abuse, neglect or exploitation.

D. When a report is received pertaining to a vulnerable adult who has a legal guardian, a copy of the investigative report of the ~~Department~~ Adult Protective Services Division shall be filed with the court to which the guardian is accountable.

E. 1. In the case of a report pertaining to a vulnerable adult who is a resident of a nursing facility, residential care facility, assisted living facility or continuum of care facility, the ~~Department~~ Adult Protective Services Division shall immediately notify the State Department of Health of the investigative report in writing, and shall forward to the State Department of Health a copy of the ~~Department's~~ Adult Protective Services Division's final investigative report.

2. The ~~Department of Human~~ Adult Protective Services Division shall be deemed a party pursuant to the Administrative Procedures Act for the investigative reports filed by the Department with the State Department of Health regarding vulnerable adults who are residents of nursing facilities, residential care facilities, assisted living facilities or continuum of care facilities.

- a. Within thirty (30) days of receipt of the final investigative report submitted by the Department of Human Services pursuant to this section, the State Department of Health shall provide the Department of Human Services with a written summary of any action taken as a result of the complaint including, but not limited to, results of any inspections, enforcement actions or actions which may be taken by the State Department of Health.
- b. Whenever the Department of Human Services believes that the conditions giving rise to a complaint by the Department alleging a serious threat to the health,

safety or welfare of a resident of a nursing facility, residential care facility, assisted living facility or continuum of care facility have not been adequately addressed, the Department of Human Services may request the State Department of Health to hold a hearing on the complaint as provided by Section 309 of Title 75 of the Oklahoma Statutes.

3. Nothing herein shall prevent the State Department of Health from conducting any type of investigation or taking any appropriate remedial or other action pursuant to the provisions of the Nursing Home Care Act, the Residential Care Act and the Continuum of Care and Assisted Living Act.

F. When a report is received pertaining to a vulnerable adult residing in a facility other than a home, where persons are employed to provide care and those employees have been named as persons responsible for the abuse, neglect or exploitation, the Department shall forward its findings to the owner or operator of the facility to prevent further incidents.

SECTION 19. AMENDATORY 43A O.S. 2001, Section 10-106, as amended by Section 6, Chapter 332, O.S.L. 2003 (43A O.S. Supp. 2003, Section 10-106), is amended to read as follows:

Section 10-106. A. If the ~~Department of Human~~ Adult Protective Services Division determines, as a result of its investigation, that a vulnerable adult needs protective services, the Department shall immediately provide or arrange for the provision of available protective services in the least restrictive manner, provided the person affirmatively consents to receive these services.

B. 1. When a caretaker of a vulnerable adult who consents to the receipt of protective services refuses to allow the provision of such services to the person, the Department may petition to the court for a decree enjoining the caretaker from interfering with the provision of protective services to the person.

2. The complaint must allege specific facts sufficient to show that the person is a vulnerable adult in need of protective services, consents to the receipt of protective services, and that the caretaker refuses to allow the provision of such services.

3. If the court finds that the person is a vulnerable adult in need of protective services, consents to the receipt of protective services, and that the caretaker refuses to allow the provision of such services, the court may enter a decree:

- a. enjoining the caretaker from interfering with the provision of protective services to the vulnerable adult, and
- b. freezing the assets of the vulnerable adult if it has been determined by preponderance of the evidence that the vulnerable adult is being exploited and it is necessary to protect such assets.

C. If a vulnerable adult does not consent to the receipt of protective services or withdraws consent to the receipt of such services, the services shall be terminated, unless the ~~Department~~ Adult Protective Services Division determines that the person lacks capacity to consent, in which case the Department may seek court authorization to provide services pursuant to Section ~~10-108~~ 21 of this ~~title~~ act.

D. 1. Payment for the costs of providing protective services shall be made from either:

- a. the assets of the vulnerable adult consenting to the receipt of voluntary protective services, or
- b. any available private or public assistance programs for which the vulnerable adult is eligible.

2. If no assets or other private or public funds are available to the person, payment shall be made from a fund established by the Department for the purpose of providing emergency adult protective services, subject to availability of funds.

SECTION 20. AMENDATORY 43A O.S. 2001, Section 10-107, as amended by Section 7, Chapter 332, O.S.L. 2003 (43A O.S. Supp. 2003, Section 10-107), is amended to read as follows:

Section 10-107. A. If a vulnerable adult lacks the capacity to consent to receive protective services recommended by the ~~Department of Human~~ Adult Protective Services Division, these services may be ordered by a court on an involuntary basis through an emergency order.

B. 1. In ordering emergency involuntary protective services for a vulnerable adult, the court shall authorize only that intervention which it finds to be least restrictive of the liberty and rights of such person, while consistent with the welfare and safety of the person. The basis for such finding shall be stated in the record by the court.

2. Whenever it is consistent with the welfare and safety of the person, the court shall authorize that involuntary protective services be administered to the vulnerable adult in the present living accommodations of that person.

C. 1. Payment for involuntary protective services provided to a vulnerable adult determined by the court to be in need of involuntary protective services pursuant to this section or Section ~~10-108~~ 21 of this ~~title~~ act shall be made:

- a. from assets of the vulnerable adult receiving emergency involuntary protective services, if the court so orders after a showing by the Department that the person has adequate assets to make such payment, and that payment for the involuntary protective services will not cause the person to go without other necessities of life. Prior to any hearing on the assets or issuance of an order pursuant to this subparagraph, the legal guardian, caretaker and guardian ad litem of the vulnerable adult, any person

so requested by the vulnerable adult and persons required to be notified pursuant to Section 3-110 of Title 30 of the Oklahoma Statutes shall be notified of such hearing and order,

- b. from any private or public assistance programs for which the person is eligible, or
- c. as provided by paragraph 2 of subsection D of Section ~~10-106~~ 19 of this ~~title act~~ if the person has inadequate assets to make such payments as ordered by the court, and no private or public funds are available to the person, from a fund established by the Department for the purpose of providing emergency adult protective services, subject to availability of funds.

2. The person has a right to be present and represented by counsel at any hearing. If the vulnerable adult is indigent or, in the determination of the court, lacks capacity to waive the right to counsel, the court shall appoint counsel. If the person is indigent, the cost of representation by counsel shall be borne by this state.

D. Upon the request of an authorized representative of the Department, the district attorney of the county in which the person alleged or found by a court to be in need of involuntary protective services resides shall provide legal representation for the Department in any local proceedings related to the provision of involuntary protective services pursuant to this section or Section ~~10-108~~ 21 of this ~~title act~~.

SECTION 21. AMENDATORY 43A O.S. 2001, Section 10-108, as amended by Section 8, Chapter 332, O.S.L. 2003 (43A O.S. Supp. 2003, Section 10-108), is amended to read as follows:

Section 10-108. A. 1. If the ~~Department of Human Adult~~ Protective Services Division determines that a vulnerable adult is



suffering from abuse, neglect, or exploitation presenting a substantial risk of death or immediate and serious physical harm to the person or financial exploitation of the estate of the person, and the vulnerable adult lacks mental capacity to consent to receive protective services and no consent can be obtained, the Department may petition the district court in the county specified by paragraph 3 of this subsection for an order:

- a. authorizing involuntary protective services and appointing a temporary guardian of the person and/or the estate,
- b. freezing the assets of the vulnerable adult, if the vulnerable adult is being exploited, establishing any new accounts necessary to pay the daily living expenses of the vulnerable adult, and directing a full accounting and investigation of the person alleged to be improperly managing the estate of the vulnerable adult, or
- c. suspending or revoking the powers of an attorney-in-fact granted by a durable power of attorney, or revoking an irrevocable trust, or terminating a guardianship or conservatorship established pursuant to the Oklahoma Guardianship and Conservatorship Act.

2. Under no circumstances shall the court authorize the Department, pursuant to this subsection, to consent or deny consent to a Do-Not-Resuscitate order or the withdrawal of hydration or nutrition or other life-sustaining treatment although the court retains jurisdiction to hear such matters under applicable law.

3. The district court which may be petitioned by the Department for an order pursuant to paragraph 1 of this subsection is:

- a. the district court in the county in which the vulnerable adult resides,

- b. the district court in the county in which the vulnerable adult is receiving inpatient services, or
- c. the district court in the county where the vulnerable adult is located when any delay caused by taking the petition to the district court in the county of the residence of the vulnerable adult would result in greater substantial risk of death or greater serious physical harm to the vulnerable adult. The petition shall include an explanation of why the petition was filed in the district court in the county specified by this subparagraph rather than in the district court as specified in subparagraph a or b of this paragraph.

B. The petition shall be sworn to and include the name, age, and address of the vulnerable adult who the Department has determined is in need of emergency protective services, the nature of the abuse, neglect, or exploitation, the services needed, and information relating to the capacity of the person to consent to services and a description of the attempts of the Department to obtain consent and the name of the person or organization proposed to be appointed as temporary guardian.

C. 1. The vulnerable adult shall receive an opportunity for a hearing upon the petition, and shall be personally served with a copy of the petition and a notice scheduling hearing at least forty-eight (48) hours prior to any such hearing if the petition seeks temporary guardianship of thirty (30) days or more.

- 2. a. The hearing shall be set by the court on an expedited basis, but no later than five (5) calendar days, not including weekends or holidays when the court is closed, from the date the notice scheduling hearing is signed by the judge. The vulnerable adult shall have a right to a closed hearing unless such vulnerable adult requests otherwise.

b. Unless the vulnerable adult objects or the person requiring notification pursuant to this subparagraph is alleged to have abused, neglected or exploited the vulnerable adult, the following persons shall be notified of any hearing held pursuant to this subsection:

- (1) the legal guardian, guardian ad litem and caretaker of the vulnerable adult,
- (2) any person so requested by the vulnerable adult to be present at the hearing, and
- (3) persons required to be notified pursuant to Section 3-110 of Title 30 of the Oklahoma Statutes.

D. 1. Upon sworn testimony of a representative of the Department, or statement of a district attorney representing the Department, that immediate and reasonably foreseeable death or serious physical harm to or financial exploitation of the vulnerable adult will result, the court may waive prior notice and issue a seventy-two-hour temporary guardianship and provide involuntary protective services whether or not during regular courthouse business hours. However, within twenty-four (24) hours of issuance of the seventy-two-hour order, the vulnerable adult and the attorney of the vulnerable adult, if known, shall be personally served with written notice scheduling a hearing within seventy-two (72) hours.

2. If a hearing on the seventy-two-hour order is declined, or upon conclusion of any such hearing, the court may terminate the temporary guardianship and involuntary services or enter a temporary guardianship for up to thirty (30) additional calendar days as provided for in subsection G of this section.

E. 1. The vulnerable adult has a right to be present and represented by counsel at any hearing authorized by this section. If the vulnerable adult is indigent or, in the determination of the

court, lacks capacity to waive the right to counsel, the court shall immediately appoint counsel who shall personally meet with the vulnerable adult and attempt to discuss the petition or any pending motion prior to any hearing.

2. If the vulnerable adult is not in attendance at a scheduled hearing, the court shall make a special finding as to why the vulnerable adult is unable to attend, and, upon the request of the vulnerable adult or the attorney of the vulnerable adult, may continue the hearing to allow the vulnerable adult to attend.

3. If the vulnerable adult is indigent, the cost of representation by counsel shall be borne by court funds.

4. If the vulnerable adult is not indigent, the court may order costs of representation paid from the estate in the same manner as currently paid under the Oklahoma Guardianship and Conservatorship Act.

F. 1. After a hearing on the petition, the court may:

- a. appoint a temporary guardian and order involuntary protective services including, but not limited to, authorization for medical and/or psychological treatment and evaluations, and residential placement subject to the provisions of subsection G of this section,
- b. issue an order freezing all assets of the vulnerable adult, establish any new accounts necessary to pay the daily living expenses of the vulnerable adult, and order a full accounting and investigation of the person alleged to be improperly managing the vulnerable adult's estate, or
- c. suspend or revoke powers of attorney or terminate a guardianship or conservatorship upon a finding that the attorney-in-fact, guardian or conservator failed

to act appropriately on behalf of the vulnerable adult.

2. a. Except as otherwise provided by subparagraphs b and c of this paragraph, the court appointing a temporary guardian and ordering involuntary protective services shall not have authority to order the sale of the real property of the vulnerable adult.
- b. If the Department of Human Services has been appointed temporary guardian and the court issues an order for the Department to continue as the temporary guardian of the vulnerable adult beyond the one hundred eighty (180) calendar days authorized by this section because there is no one willing and able to act as guardian for the vulnerable adult, the Department, as temporary guardian may, after one (1) year from its initial appointment, sell the real property of a vulnerable adult pursuant to the provisions of the Oklahoma Guardianship and Conservatorship Act.
- c. The Department, as temporary guardian of a vulnerable adult, may also sell the real property of the vulnerable adult pursuant to the provisions of the Oklahoma Guardianship and Conservatorship Act prior to the one-year requirement specified in subparagraph b of this paragraph, if not selling the real property would jeopardize the vulnerable adult's eligibility for Medicaid. The fact that the vulnerable adult would be in jeopardy for receipt of Medicaid if the property was not sold shall be stated upon the court order directing the sale of the real property of the vulnerable adult.

G. Whenever the court issues an order for involuntary protective services, the court shall adhere to the following limitations:

1. Only such protective services as are necessary to remove the conditions creating the emergency shall be ordered, and the court shall specifically designate the approved services in the order of the court;

2. Protective services authorized by an involuntary protective services order shall not include a change of residence unless the court specifically finds such action is necessary to remove the conditions creating the emergency and gives specific approval for such action in the order of the court. Emergency placement may be made to such facilities as nursing homes, hospital rehabilitation centers, assisted living centers, foster care and in-home placements, or to other appropriate facilities; provided, however, emergency placement shall not be made to facilities for the acutely mentally ill; and

3. Involuntary protective services may be provided for a period not to exceed thirty (30) calendar days except as provided by subsections L and M of this section.

H. The court shall appoint the Department or an interested person or organization as temporary guardian of the person with responsibility for the welfare of such person and authority to give consent on behalf of the person for the approved involuntary protective services until the expiration of the order.

I. The issuance of an order for involuntary protective services and the appointment of a temporary guardian shall not deprive the vulnerable adult of any rights except to the extent validly provided for in the order or appointment.

J. 1. To enforce an order for involuntary protective services, the court may authorize:

- a. forcible entry of the premises of the vulnerable adult to be protected for the purpose of rendering protective services but only after a reasonable showing to the court that good faith attempts to gain voluntary access to the premises have failed and forcible entry is necessary, and
- b. the transporting of the vulnerable adult to another location for the provision of involuntary services.

2. If forcible entry is authorized by the court, the order shall include a directive that ~~the Department's~~ a representative of the Adult Protective Services Division be accompanied by a police officer or deputy sheriff in the county where the vulnerable adult or property of the vulnerable adult is located, and the police officer or deputy sheriff shall make the forcible entry.

K. The vulnerable adult, the temporary guardian, or any interested person may petition the court to have the order to provide involuntary protective services set aside or modified at any time.

L. If the vulnerable adult continues to need involuntary protective services after expiration of the thirty-day temporary guardianship provided in subsection G of this section, the temporary guardian shall immediately file a verified motion requesting the court to, except as otherwise provided by subsection F of this section, continue the temporary guardianship and involuntary protective services under this section for a period not to exceed one hundred eighty (180) calendar days.

M. 1. Service of the verified motion shall be made in conformity with subsection C of this section.

2. Upon filing such motion, the court shall order that a physical, mental, and social evaluation of the vulnerable adult be conducted by the Department and that a proposed plan of care be

submitted to the court within thirty (30) calendar days thereafter reflecting the evaluation findings and recommended services.

3. Upon filing such motion, the prior temporary guardianship shall remain in full force and effect pending a review hearing after the thirty-day evaluation period. The caretaker, guardian or next-of-kin of the vulnerable adult may request that the evaluation period be shortened for good cause.

4. The evaluation shall include at least the following information:

- a. the address of the place where the person is residing and the person or agency which is providing care, treatment, or services at present,
- b. a summary of the professional treatment and services provided to the person by the Department or agency, if any, in connection with the problem creating the need for emergency protective services, and
- c. a medical and social evaluation, including, but not limited to, the ~~Department's~~ Adult Protective Services Division's assessment of the person's capacity to consent to services, a psychological or psychiatric evaluation and review if the mental state of the person is in question, and any recommendations for or against maintenance of partial legal rights. The evaluation and review shall include recommendations for placement based upon the best interests of the vulnerable adult taking into consideration the following:
  - (1) the least restrictive environment,
  - (2) the desires of the vulnerable adult and legal guardian,
  - (3) the desires of the caretaker of the vulnerable adult and of any of the persons specified in



Section 3-110 of Title 30 of the Oklahoma Statutes,

- (4) the physical and mental health needs of the vulnerable adult,
- (5) the available programs and services, and
- (6) the health, well-being and welfare of the vulnerable adult and the public.

During the hearing to consider the motion to continue the temporary guardianship of the vulnerable adult for up to one hundred eighty (180) calendar days, the court shall consider the Department's findings and proposed plan of care and any other evidence presented by the caretaker, guardian or other interested persons. The court shall either terminate the temporary guardianship and all involuntary services or continue the temporary guardianship and specify any necessary services to be provided by the Department for a period not to exceed one hundred eighty (180) calendar days. Provided, the court may continue the guardianship of the Department, if there is no one willing and able to act as guardian for the vulnerable adult.

N. Neither the Department nor any of its employees or any other petitioner shall be liable for filing a petition pursuant to the Protective Services for Vulnerable Adults Act if the petition was filed in good faith.

SECTION 22. AMENDATORY 43A O.S. 2001, Section 10-109, is amended to read as follows:

Section 10-109. A. In providing any of the duties set forth in this act, the Department of Human Services may provide direct protective services.

B. The Department may contract with any public or private agency for the provision of protective services.

C. The Department shall utilize to the extent appropriate and available existing resources and services of public and nonprofit

private agencies in providing protective services. The Department shall make maximum use of volunteers and church groups whenever feasible.

SECTION 23. AMENDATORY 43A O.S. 2001, Section 10-109a, is amended to read as follows:

Section 10-109a. A. The Commission for Human Services in conjunction with the advice of the Aging Services Rule Advisory Council shall establish uniform policies detailing the responsibilities and duties of employees of the Department of Human Services and the Adult Protective Services Division when providing or arranging services for vulnerable adults whether the services are to be paid for by the vulnerable adult or from other private or public funds.

B. The policies shall include, but not be limited to:

1. The handling of the personal resources, such as bank accounts, cash, checks, notes, mortgages, trust deeds, sales contracts, stocks, bonds, certificates or other liquid assets of a vulnerable adult without prior approval of the supervisor;

2. Specific procedures for obtaining and handling repairs, personal services and other necessary actions to provide health care, food, shelter to or on behalf of a vulnerable adult;

3. Prohibiting an employee from any type of solicitation or charging, requesting or accepting any fee, gift, reward, or payment of any kind from individuals or staff for any services rendered as a volunteer, intern, or employee relating to vulnerable adults;

4. Prohibiting an employee from using contact with clients or any member or the client's support system for personal gain or personal relationships;

5. Prohibiting an employee, upon termination of any assignment, from making personal contact with former clients or any member of the client's support system and from using former contact with clients for personal gain;

6. Prohibiting an employee from buying items from clients;

7. Ensuring that no employee whose responsibilities relate in any manner to services provided to or on behalf of a vulnerable adult is subject to a conflict of interest which would impair the ability of the employee to carry out his or her employment duties in an impartial manner;

8. Sufficient oversight by administrative heads of local offices of the Department as to the provision for and arrangement of services to vulnerable adults; and

9. Such other requirements as deemed necessary by the Commission.

SECTION 24. AMENDATORY 43A O.S. 2001, 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 with the advice of the Aging Services Rule Advisory Council, 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 professional involved in the evaluation or treatment of the vulnerable adult;

5. A caretaker, legal 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;

6. Any public or private agency or person authorized by the Department to diagnose, provide care and treatment to a vulnerable adult who is the subject of a report or record of vulnerable adult abuse or neglect;

7. Any public or private agency or person authorized by the Department to supervise or provide 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

8. 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.

SECTION 25. AMENDATORY 43A O.S. 2001, Section 10-111, is amended to read as follows:

Section 10-111. A. 1. The district courts are vested with jurisdiction to issue orders and enforce orders restricting visitation, by the custodian or by any other person specified by the court, of a vulnerable adult who is receiving or has been determined to need protective services pursuant to the Protective Services for Vulnerable Adults Act.

2. Whenever it is consistent with the welfare and safety of a vulnerable adult, the court shall restrict the visitation of a custodian or other person specified by the court who is alleged or has been determined to have abused, neglected or exploited the vulnerable adult.

3. Notice as ordered by the court shall be given to the custodian or other person alleged or determined to have abused, neglected or exploited a vulnerable adult.

B. If the ~~Department of Human~~ Adult Protective Services Division determines, as a result of its investigation, that a vulnerable adult needs voluntary or involuntary protective services

as a result of abuse, neglect or exploitation by the caretaker or by any other person, the Department may petition the district court to restrict the visitation of such custodian or other person with the vulnerable adult.

C. 1. Consistent with the welfare and safety of the vulnerable adult, the court may require supervised visitation, prohibit visitation or otherwise limit the visitation by the custodian or such other person with the vulnerable adult.

2. The basis for restricting visitation shall be stated in the record by the court.

D. The owner, operator or any facility personnel of a nursing home, residential home, assisted living facility or other long-term care facility having reason to believe that visitation of a vulnerable adult should be restricted may notify the long-term care ombudsman program or adult protective services. Any other person having reason to believe that visitation of a vulnerable adult should be restricted may notify the ~~Department of Human~~ Adult Protective Services Division pursuant to the Protective Services for Vulnerable Adults Act.

SECTION 26. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 9-101.11 of Title 1A, unless there is created a duplication in numbering, reads as follows:

The Department of Human Services is hereby authorized to contract for the services of guardians and conservators who will act on behalf of individuals that are recipients of services through the Department's adult protective services program within the Adult Protective Services Division created pursuant to Section 6 of this act. The Department is authorized to reimburse such guardians and conservators for any expenses determined to be reimbursable by the Department and incurred as a result of their services as guardian or conservator.

SECTION 27. REPEALER 56 O.S. 2001, Sections 3001, 3002 and 3003, are hereby repealed. 63 O.S. 2001, Sections 1-107.1A and 1-111.1, are hereby repealed.

SECTION 28. RECODIFICATION 56 O.S. 2001, Section 3100, as amended by Section 8 of this act, shall be recodified as Section 6-101 of Title 1A of the Oklahoma Statutes, unless there is created a duplication in numbering. 63 O.S. 2001, Section 1-2212, as amended by Section 9 of this act, shall be recodified as Section 7-101 of Title 1A of the Oklahoma Statutes, unless there is created a duplication in numbering. 63 O.S. 2001, Section 1-2213, as amended by Section 10 of this act, shall be recodified as Section 7-101.1 of Title 1A of the Oklahoma Statutes, unless there is created a duplication in numbering. 63 O.S. 2001, Section 1-2214, as amended by Section 11 of this act, shall be recodified as Section 7-101.2 of Title 1A of the Oklahoma Statutes, unless there is created a duplication in numbering. 63 O.S. 2001, Section 1-2215, as amended by Section 12 of this act, shall be recodified as Section 7-101.3 of Title 1A of the Oklahoma Statutes, unless there is created a duplication in numbering. 63 O.S. 2001, Section 1-2216, as amended by Section 13 of this act, shall be recodified as Section 7-101.4 of Title 1A of the Oklahoma Statutes, unless there is created a duplication in numbering. 56 O.S. 2001, Section 163.1, as amended by Section 14 of this act, shall be recodified as Section 8-101 of Title 1A of the Oklahoma Statutes, unless there is created a duplication in numbering. 43A O.S. 2001, Section 10-102, shall be recodified as Section 9-100 of Title 1A of the Oklahoma Statutes, unless there is created a duplication in numbering. 43A O.S. 2001, Section 10-103, as last amended by Section 15 of this act, shall be recodified as Section 9-101 of Title 1A of the Oklahoma Statutes, unless there is created a duplication in numbering. 43A O.S. 2001, Section 10-104, as last amended by Section 16 of this act, shall be recodified as Section 9-101.1 of Title 1A of the Oklahoma Statutes,

unless there is created a duplication in numbering. 43A O.S. 2001, Section 10-105.1, as last amended by Section 17 of this act, shall be recodified as Section 9-101.2 of Title 1A of the Oklahoma Statutes, unless there is created a duplication in numbering. 43A O.S. 2001, Section 10-105, as last amended by Section 18 of this act, shall be recodified as Section 9-101.3 of Title 1A of the Oklahoma Statutes, unless there is created a duplication in numbering. 43A O.S. 2001, Section 10-106, as last amended by Section 19 of this act, shall be recodified as Section 9-101.4 of Title 1A of the Oklahoma Statutes, unless there is created a duplication in numbering. 43A O.S. 2001, Section 10-107, as last amended by Section 20 of this act, shall be recodified as Section 9-101.5 of Title 1A of the Oklahoma Statutes, unless there is created a duplication in numbering. 43A O.S. 2001, Section 10-108, as last amended by Section 21 of this act, shall be recodified as Section 9-101.6 of Title 1A of the Oklahoma Statutes, unless there is created a duplication in numbering. 43A O.S. 2001, Section 10-109, as amended by Section 22 of this act, shall be recodified as Section 9-101.7 of Title 1A of the Oklahoma Statutes, unless there is created a duplication in numbering. 43A O.S. 2001, Section 10-109a, as amended by Section 23 of this act, shall be recodified as Section 9-101.8 of Title 1A of the Oklahoma Statutes, unless there is created a duplication in numbering. 43A O.S. 2001, Section 10-110, as amended by Section 24 of this act, shall be recodified as Section 9-101.9 of Title 1A of the Oklahoma Statutes, unless there is created a duplication in numbering. 43A O.S. 2001, Section 10-111, as amended by Section 25 of this act, shall be recodified as Section 9-101.10 of Title 1A of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 29. Sections 1, 3, 4, 5, 6, 8 through 26, and Section 28 of this act shall become effective November 1, 2004.



SECTION 30. 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.

49-2-8144      ASK      01/20/04