STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1963 By: Steele

COMMITTEE SUBSTITUTE

An Act relating to public health and safety; creating Long-term Care Security Act; providing short title; defining terms; providing for Department of Corrections to provide certain notifications; requiring State Department of Health to promulgate certain rules; providing for removal of certain persons from long-term care facilities; providing for specialized facility for sexual offenders or sexual predators; requiring Department of Corrections to provide certain notice and certain placement; requiring State Department of Health to perform certain background checks; prohibiting employment of certain persons; requiring State Long-Term Care Ombudsman to perform certain background checks; prohibiting employment of certain persons; requiring certain recommendations from the State Long-Term Care Advisory Board; requiring ombudspersons to perform certain actions; requiring certain documentation and reports; providing for codification; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-1944 of Title 63, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Long-term Care Security Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-1945 of Title 63, unless there is created a duplication in numbering, reads as follows:

For purposes of the Long-term Care Security Act:

1. "Long-term care facility" means:

a. a nursing facility, specialized facility, or residential care home as defined by Section 1-1902 of Title 63 of the Oklahoma Statutes,

b. an adult day care center as defined by Section 1-872 of Title 63 of the Oklahoma Statutes,

c. skilled nursing care provided in a distinct part of a hospital as defined by Section 1-701 of Title 63 of the Oklahoma Statutes,

d. an assisted living center as defined by Section 1-890.2 of Title 63 of the Oklahoma Statutes,

e. the nursing care component of a continuum of care facility as defined under the Continuum of Care and Assisted Living Act, or

f. the nursing care component of a life care community as defined by the Long-term Care Insurance Act; and

2. "Ombudsperson" means the individual employed by the Department of Human Services as the State Long-Term Care Ombudsman.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-1946 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. 1. The Department of Corrections shall notify the State Department of Health of any person that is required to register pursuant to the Sex Offender Registration Act who is seeking placement from a Department of Corrections facility to any long-term care facility in the state. When the State Department of Health receives such notification, it must notify the long-term care facility in which the sexual offender is seeking placement.

2. The State Department of Health shall promulgate rules requiring long-term care facilities to determine from local law enforcement or the Department of Corrections:

a. the status of any applicants for admission to the facility who are required to register pursuant to the Sex Offender Registration Act,

b. the status of any residents of a long-term care facility who are required to register pursuant to the Sex Offender Registration Act, and

c. the status of any employees of a long-term care facility who are required to register pursuant to the Sex Offender Registration Act.

3. Once a long-term care facility is notified that individuals who are required to register pursuant to the Sex Offender Registration Act are residing at their facility, the facility shall immediately in writing notify the State Department of Health.

B. Within two (2) weeks of notification by a long-term care facility that a person who is required to register pursuant to the Sex Offender Registration Act is residing in a state long-term care facility, the State Department of Health shall remove such individual and place the resident in the specialized facility provided for in this section.

C. Upon the effective date of this act, when the Department of Corrections knows of a sexual offender being released from Department of Corrections jurisdiction, the Department of Corrections shall immediately notify the State Department of Health and such individual shall immediately be placed in the specialized facility.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-1947 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. 1. The State Department of Health and the Department of Human Services shall conduct criminal background checks on all current and future employees of the State Department of Health and Department of Human Services whose responsibilities include working inside long-term care facilities on behalf of the State Department of Health or the Department of Human Services.

2. A criminal background check shall be conducted on:

a. any current or future employee of the State of Oklahoma,

b. any entity contracting with the State of Oklahoma,

c. any individual volunteering for a state-sponsored program,

d. individuals contracting through the Department of Human Services Advantage Waiver Program who enters any long-term care facility,

e. any entity providing services to the disabled or elderly in a facility or client's home, and

f. individuals employed by or volunteering for the State Long-Term Care Ombudsman Program.

3. The State Department of Health and the Department of Human Services shall not hire or continue employment of an individual that has been convicted of the crimes listed in Section 1-1950.1 of Title 63 of the Oklahoma Statutes. The criminal background checks required by this section shall follow the requirements of Section 1-1950.1 of Title 63 of the Oklahoma Statutes.

B. The State Department of Health and the Department of Human Services shall also submit a list of all employees of the State Department of Health who work inside long-term care facilities to the Department of Corrections. The Department of Corrections shall promptly notify the State Department of Health of any employee who is required to register pursuant to the Sex Offender Registration Act.

C. The State Department of Health is prohibited from employing as a surveyor of nursing homes any person who has received substandard quality surveys or surveys where remedies are imposed when the individual was in a position of management, such as the nursing home administrator or director of nursing while working for a private or public long-term care facility.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-1948 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The State Long-Term Care Ombudsman is prohibited from employing any individual or volunteer ombudsman to work inside a long-term care facility who is registered pursuant to the Sex Offender Registration Act.

B. The State Long-Term Care Ombudsman Advisory Board shall submit recommendations to the Department of Human Services, Aging Services Division no later than sixty (60) days after the enactment of this act, which shall provide for a minimum of eighteen (18) hours of continuing education of training relevant to the care and services of the aging and disabled per year for all state long-term care employees and volunteers per year.

C. All long-term care ombudsperson shall visit their assigned long-term care facilities at least one time per quarter each year in order to remain active long-term care ombudsperson.

D. The Ombudsman shall document the required visits to facilities by the state long-term care ombudsperson and submit such documentation to the State Commissioner of Health, the Legislature and Governor by February 1 of each year.

The report shall include but not be limited to:

1. The number of visits;

2. The name of the facility; and

3. The name of the volunteer ombudsman.

SECTION 7. 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.

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