

ENROLLED SENATE
BILL NO. 236

By: Morgan and Crutchfield of
the Senate

and

Benge and Newport of the
House

An Act relating to Attorney General; creating a Victims Services Unit within the Office of the Attorney General; specifying purpose; defining terms; creating the Domestic Violence and Sexual Assault Advisory Council; providing Sunset term for Council; providing for membership, membership selection, terms of office, selection of chair, and appointments to unexpired terms; establishing duties; providing for certain membership of Council to continue for certain period; directing the Attorney General to contract for certain services; making certain contractors subject to certain rules; providing confidentiality of certain records; defining certain record; making exception to confidentiality for certain persons; prohibiting certain disclosure of certain information; construing certain information not be subject to open records information; defining term; providing certain services for certain minor mothers; limiting extent of certain services without court order or certain consent; exempting certain facilities from certain criminal provisions under certain circumstance; providing emergency custody hearing for certain persons; directing the Attorney General to maintain twenty-four-hour telephone service for certain purpose; transferring all administrative rules on certain date from the Department of Mental Health and Substance Abuse Services to the Office of the Attorney General for certain purpose; directing the Secretary of State to make rule transfer official; allowing for future amendments, repeal or additions to any transferred rules; providing for certification of certain programs and services; specifying names for certified programs and services; providing application for certification from the Attorney General; setting terms of certification; allowing certain compliance visits and inspections; exempting certain professionals from certain certification; requiring certain facilities to meet certain standards; exempting the Department of Mental Health and Substance Abuse Services and Department of Human Services from certain standards; providing for revocation of certification for certain failure to

comply; authorizing Attorney General to collect certain fee; setting certification fee; authorizing injunctive relief for certain violation; making certain findings prima facie evidence; providing for collection of certain information for certain purposes; exempting certain data and information from the Oklahoma Open Records Act and public disclosure; amending 21 O.S. 2001, Section 644, as last amended By Section 12 of Enrolled House Bill No. 2060 of the 1st Session of the 50th Oklahoma Legislature, which relates to domestic abuse; changing certifying authority; amending 43A O.S. 2001, Section 1-102, as amended by Section 1, Chapter 46, O.S.L. 2003 (43A O.S. Supp. 2004, Section 1-102), which relates to purpose of Mental Health Law; deleting domestic violence and sexual assault services; amending 43A O.S. 2001, Section 2-103, as last amended by Section 5 of Enrolled Senate Bill No. 561 of the 1st Session of the 50th Oklahoma Legislature, which relates to Board of Mental Health and Substance Abuse Services; modifying membership; modifying application of duties; amending Section 9, Chapter 46, O.S.L. 2003 (43A O.S. Supp. 2004, Section 2-224), which relates to collection of information; deleting collection of information for domestic violence and sexual assault; amending 43A O.S. 2001, Section 3-302, as amended by Section 15, Chapter 46, O.S.L. 2003 (43A O.S. Supp. 2004, Section 3-302), which relates to definitions; modifying certain definitions; amending 22 O.S. 2001, Sections 60.1, as amended by Section 1, Chapter 407, O.S.L. 2003, 60.4, as amended by Section 4, Chapter 407, O.S.L. 2003, 60.6, as amended by Section 2, Chapter 516, O.S.L. 2004 (22 O.S. Supp. 2004, Sections 60.1, 60.4, and 60.6), which relate to Protection from Domestic Abuse Act and Domestic Abuse Reporting Act definitions, emergency ex parte order and violation of final order; modifying definitions; modifying entity certifying certain programs; amending 22 O.S. 2001, Section 1602, which relates to Domestic Violence Fatality Review Board; modifying and increasing membership; changing appointing authority from Department of Mental Health and Substance Abuse Services to the Attorney General; amending 63 O.S. 2001, Section 1-227.4, which relates to interagency child abuse task force; modifying membership representing Department of Mental Health and Substance Abuse Services; modifying certain expertise required by certain member; changing membership to include the Attorney General; repealing 43A O.S. 2001, Section 3-313, as last amended by Section 1, Chapter 389, O.S.L. 2004 (43A O.S. Supp. 2004, Section 3-313), which relates to domestic violence and sexual assault shelters, records and reporting; repealing 43A O.S. 2001, Section 3-313a, which relates to domestic violence services to minor mothers; repealing 43A O.S. 2001, Section 3-314, which relates to twenty-four-hour statewide telephone

communications service; repealing 43A O.S. 2001, Section 3-314.1, as last amended by Section 2, Chapter 389, O.S.L. 2004 (43A O.S. Supp. 2004, Section 3-314.1), which relates to certification of domestic violence and sexual assault programs; repealing 43A O.S. 2001, Section 3-314.2, as last amended by Section 15 of Enrolled Senate Bill No. 561 of the 1st Session of the 50th Oklahoma Legislature, which relates to ability to obtain injunction for domestic violence and sexual assault programs; providing for codification; 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 to be codified in the Oklahoma Statutes as Section 18p-1 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created within the Office of the Attorney General a Victims Services Unit.

B. The duty of the Unit is to provide services for persons who require domestic violence or sexual assault services through a domestic violence or sexual assault program.

C. As used in this act, "domestic violence program" or "sexual assault program" means an agency, organization, facility or person that offers, provides or engages in the offering of any shelter, residential services or support services to:

1. Victims or survivors of domestic abuse as defined in Section 60.1 of Title 22 of the Oklahoma Statutes, any dependent children of such victim or survivor, and any other member of the family or household of such victim or survivor;

2. Victims or survivors of sexual assault;

3. Persons who are homeless as a result of domestic abuse or sexual assault or both domestic abuse and sexual assault; and

4. Persons who commit domestic abuse,

and which may provide other services, including, but not limited to, counseling, case management, referrals or other similar services to victims or survivors of domestic abuse or sexual assault.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 18p-2 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created, to continue until July 1, 2009, in accordance with provisions of the Oklahoma Sunset Law, the Domestic

Violence and Sexual Assault Advisory Council. The Council shall be a nine-member committee appointed by the Attorney General.

B. Four of the members shall be selected from a list of eight nominees provided by the Oklahoma Coalition on Domestic Violence and Sexual Assault and five of the members shall be selected by the Attorney General from the State of Oklahoma at large; provided, that of the members selected by the Attorney General from the state at large, one member shall be a representative of any domestic violence programs funded through or by the Attorney General, and one member shall be a citizen of this state with expertise in the area of sexual assault services.

C. The Council shall select a chair annually. Appointment to the Council shall be for two (2) years. The Attorney General shall appoint persons to fill unexpired terms when necessary.

D. The duties of the Council shall be to review rules and overall policies relating to the operation and funding of domestic violence and sexual assault programs in this state and make recommendations to the Attorney General regarding its findings.

E. The current members of the Domestic Violence and Sexual Assault Committee created pursuant to Section 3-312 of Title 43A of the Oklahoma Statutes shall remain in effect as the Domestic Violence and Sexual Assault Advisory Council and carry on the powers and duties assigned to it according to law. The current members of the Committee shall remain on the Council until the expiration of their individual terms of office or until such offices are vacated. Future appointments to the Council shall be made according to the provisions of this section.

SECTION 3. NEW LAW A section of law to be codified in the Oklahoma Statutes as Section 18p-3 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. The Attorney General is hereby authorized and directed to enter into agreements and to contract for the shelter and other services that are needed for victims of domestic abuse or sexual assault. Any domestic violence or sexual assault program providing services pursuant to a contract or subcontract with the Attorney General and receiving funds from the Attorney General or any contractor with the Attorney General shall be subject to the provisions of the administrative rules of the Attorney General.

B. 1. Except as otherwise provided by paragraph 3 of this subsection, the case records, case files, case notes, client records, or similar records of a domestic violence or sexual assault program certified by the Attorney General or of any employee or trained volunteer of a program regarding an individual who is residing or has resided in such program or who has otherwise utilized or is utilizing the services of any domestic violence or sexual assault program or counselor shall be confidential and shall not be disclosed.

2. For purposes of this subsection, the term "client records" shall include, but not be limited to, all communications, records,

and information regarding clients of domestic violence and sexual assault programs.

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

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

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

SECTION 4. NEW LAW A section of law to be codified in the Oklahoma Statutes as Section 18p-4 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. As used in this section, "minor mother" means an unemancipated female under the age of eighteen (18) years of age who is pregnant or the biological parent of any child.

B. A domestic violence shelter facility may provide shelter and care to a minor mother, who is the victim of domestic abuse or is seeking relief from domestic abuse for herself or on behalf of any of her children or both herself and any of her children.

C. A domestic violence shelter facility may provide shelter or care only during an emergency constituting an immediate danger to the physical health or safety of the minor mother or her child or both the minor mother and any of her children. Such shelter or care shall not extend beyond thirty (30) days unless the facility receives an order issued by the court to continue such services or the parent or guardian of the minor mother consents to such services.

D. The provisions of Section 856 of Title 21 of the Oklahoma Statutes shall not apply to any domestic violence shelter facility and any person operating such facility who in good faith is providing shelter and care pursuant to the provisions of this section to a minor mother and any of her children who is a runaway from her parent or legal guardian.

E. The emergency custody hearing provided for in Section 7003-2.4 of Title 10 of the Oklahoma Statutes shall be provided for a minor mother who is seeking relief from domestic abuse for herself or on behalf of any of the her children.

SECTION 5. NEW LAW A section of law to be codified in the Oklahoma Statutes as Section 18p-5 of Title 74, unless there is created a duplication in numbering, reads as follows:

The Office of the Attorney General shall be responsible for the development, maintenance and operation of a twenty-four-hour statewide telephone communication service for the victims of rape, forcible sodomy and domestic violence. The purpose of the service is to provide information to such victim regarding any immediate action which should be taken by the victim, the social services available, and the legal rights and remedies of the victim.

SECTION 6. NEW LAW A section of law to be codified in the Oklahoma Statutes as Section 18p-6 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. Effective July 1, 2005, all administrative rules promulgated by the Department of Mental Health and Substance Abuse Services relating to domestic violence and sexual assault programs shall be transferred to and become a part of the administrative rules of the Office of the Attorney General. The Office of Administrative Rules in the Secretary of State's office shall provide adequate notice in the Oklahoma Register of the transfer of such rules, and shall place the transferred rules under the Administrative Code section of the Attorney General. Such rules shall continue in force and effect as rules of the Office of the Attorney General from and after July 1, 2005, and any amendment, repeal or addition to the transferred rules shall be under the jurisdiction of the Attorney General.

B. The Attorney General shall adopt and promulgate rules and standards for certification of domestic violence programs and for private facilities and organizations which offer domestic and sexual assault services in this state. These facilities shall be known as "certified domestic violence shelters" or "certified domestic violence programs" or "certified sexual assault programs" or "certified treatment programs for batterers", as applicable.

C. Applications for certification as a certified domestic violence shelter, domestic violence program, sexual assault program or treatment program for batterers, pursuant to the provisions of this section, shall be made to the Office of the Attorney General on prescribed forms. The Attorney General may certify the shelter or program for a period of three (3) years subject to renewal as provided in the rules promulgated by of the Attorney General. Nothing in this section shall preclude the Office of the Attorney General from making inspection visits to a shelter or program to determine contract or program compliance.

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

E. Facilities providing services for victims or survivors of domestic abuse or sexual assault and any dependent children of such victims or survivors shall comply with standards promulgated by the Attorney General; provided, that the certification requirements and standards promulgated by the Attorney General shall not apply to programs and services offered by the Department of Health, the Department of Mental Health and Substance Abuse Services, or the Department of Human Services. The domestic violence or sexual assault programs certified pursuant to the provisions of this section shall cooperate with inspection personnel of this state and shall promptly file all reports required by the Attorney General. Failure to comply with rules and standards of the Attorney General shall be grounds for revocation of certification, after proper notice and hearing.

F. The Attorney General is hereby authorized to collect from each applicant the sum of One Hundred Fifty Dollars (\$150.00) to help defray the costs incurred in the certification process.

SECTION 7. NEW LAW A section of law to be codified in the Oklahoma Statutes as Section 18p-7 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. The Attorney General or any district attorney, in such person's discretion, may bring an action for an injunction against any domestic violence program or sexual assault program found to be in violation of the provisions of Title 74 of the Oklahoma Statutes or of any order or determination of the Attorney General.

B. In any action for an injunction brought pursuant to this section, any findings of the Attorney General or district attorney, after hearing and due notice, shall be prima facie evidence of the facts found therein.

SECTION 8. NEW LAW. A section of law to be codified in the Oklahoma Statutes as Section 18p-8 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. The Office of the Attorney General shall have the authority to collect information sufficient to meet its responsibilities related to oversight, management, evaluation, performance improvement and auditing of domestic violence and sexual assault services and combating and preventing domestic violence and sexual assault in this state.

B. The individual forms, computer and electronic data, and other forms of information collected by and furnished to the Attorney General shall be confidential and shall not be public records as defined in the Oklahoma Open Records Act.

C. Except as otherwise provided by state and federal confidentiality laws, identifying information shall not be disclosed and shall not be used for any public purpose other than the creation and maintenance of anonymous datasets for statistical reporting and data analysis.

SECTION 9. AMENDATORY 21 O.S. 2001, Section 644, as last amended by Section 12 of Enrolled House Bill No. 2060 of the 1st Session of the 50th Oklahoma Legislature, is amended to read as follows:

Section 644. A. Assault shall be punishable by imprisonment in a county jail not exceeding thirty (30) days, or by a fine of not more than Five Hundred Dollars (\$500.00), or by both such fine and imprisonment.

B. Assault and battery shall be punishable by imprisonment in a county jail not exceeding ninety (90) days, or by a fine of not more than One Thousand Dollars (\$1,000.00), or by both such fine and imprisonment.

C. Any person who commits any assault and battery against a current or former spouse, a present spouse of a former spouse, parents, a foster parent, a child, a person otherwise related by blood or marriage, a person with whom the defendant is in a dating relationship as defined by Section 60.1 of Title 22 of the Oklahoma Statutes, an individual with whom the defendant has had a child, a person who formerly lived in the same household as the defendant, or a person living in the same household as the defendant shall be guilty of domestic abuse. Upon conviction, the defendant shall be punished by imprisonment in the county jail for not more than one (1) year, or by a fine not exceeding Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment. Upon conviction for a second or subsequent offense, the person shall be punished by imprisonment in the custody of the Department of Corrections for not more than four (4) years, or by a fine not exceeding Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment. The provisions of Section 51.1 of this title shall not apply to any second or subsequent offense.

D. Any person convicted of domestic abuse as defined in subsection C of this section that results in great bodily injury to the victim shall be guilty of a felony and punished by imprisonment in the custody of the Department of Corrections for not more than ten (10) years, or by imprisonment in the county jail for not more than one (1) year. The provisions of Section 51.1 of this title shall apply to any second or subsequent conviction of a violation of this subsection.

E. Any person convicted of domestic abuse as defined in subsection C of this section that was committed in the presence of a child shall be punished by imprisonment in the county jail for not less than six (6) months nor more than one (1) year, or by a fine not exceeding Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment. Any person convicted of a second or subsequent domestic abuse as defined in subsection C of this section that was committed in the presence of a child shall be punished by imprisonment in the custody of the Department of Corrections for not less than one (1) year nor more than five (5) years, or by a fine not exceeding Seven Thousand Dollars (\$7,000.00), or by both such fine and imprisonment. The provisions of Section 51.1 of this title shall not apply to any second or subsequent offense. For every conviction of domestic abuse, the court shall:

1. Specifically order as a condition of a suspended sentence or probation that a defendant participate in counseling or undergo treatment to bring about the cessation of domestic abuse as specified in paragraph 2 of this subsection;

2. a. The court shall require the defendant to participate in counseling or undergo treatment for domestic abuse by an individual licensed practitioner or a domestic abuse counseling program approved by the court or a domestic abuse treatment program certified by the ~~Department of Mental Health and Substance Abuse Services~~ Attorney General. If the defendant is ordered to participate in a domestic abuse counseling or treatment program, the order shall require the defendant to attend the program for a minimum of fifty-two (52) weeks, complete the program, and be evaluated before and after attendance of the program by a program counselor or a private counselor.

b. A program for anger management, couples counseling, or family and marital counseling shall not solely qualify for the counseling or treatment requirement for domestic abuse pursuant to this subsection. The counseling may be ordered in addition to counseling specifically for the treatment of domestic abuse or per evaluation as set forth below. If, after sufficient evaluation and attendance at required counseling sessions, the domestic violence treatment program or licensed professional determines that the defendant does not evaluate as a perpetrator of domestic violence or does evaluate as a perpetrator of domestic violence and should complete other programs of treatment simultaneously or prior to domestic violence treatment, including but not limited to programs related to the mental health, apparent substance or alcohol abuse or inability or refusal to manage anger, the defendant shall be ordered to complete the counseling as per the recommendations of the domestic violence treatment program or licensed professional;

3. a. The court shall set a review hearing no more than one hundred twenty (120) days after the defendant is ordered to participate in a domestic abuse counseling program or undergo treatment for domestic abuse to assure the attendance and compliance of the defendant with the provisions of this subsection and the domestic abuse counseling or treatment requirements.

b. The court shall set a second review hearing after the completion of the counseling or treatment to assure the attendance and compliance of the defendant with the provisions of this subsection and the domestic abuse counseling or treatment requirements. The court shall retain continuing jurisdiction over the

defendant during the course of ordered counseling through the final review hearing;

4. The court may set subsequent or other review hearings as the court determines necessary to assure the defendant attends and fully complies with the provisions of this subsection and the domestic abuse counseling or treatment requirements;

5. At any review hearing, if the defendant is not satisfactorily attending individual counseling or a domestic abuse counseling or treatment program or is not in compliance with any domestic abuse counseling or treatment requirements, the court may order the defendant to further or continue counseling, treatment, or other necessary services. The court may revoke all or any part of a suspended sentence, deferred sentence, or probation pursuant to Section 991b of Title 22 of the Oklahoma Statutes and subject the defendant to any or all remaining portions of the original sentence;

6. At the first review hearing, the court shall require the defendant to appear in court. Thereafter, for any subsequent review hearings, the court may accept a report on the progress of the defendant from individual counseling, domestic abuse counseling, or the treatment program. There shall be no requirement for the victim to attend review hearings; and

7. If funding is available, a referee may be appointed and assigned by the presiding judge of the district court to hear designated cases set for review under this subsection. Reasonable compensation for the referees shall be fixed by the presiding judge. The referee shall meet the requirements and perform all duties in the same manner and procedure as set forth in Sections 7003-8.6 and 7303-7.5 of Title 10 of the Oklahoma Statutes pertaining to referees appointed in juvenile proceedings.

The defendant may be required to pay all or part of the cost of the counseling or treatment, in the discretion of the court.

F. As used in subsection E of this section, "in the presence of a child" means in the physical presence of a child; or having knowledge that a child is present and may see or hear an act of domestic violence. For the purposes of subsections C and E of this section, "child" may be any child whether or not related to the victim or the defendant.

G. For the purposes of subsections C and E of this section, any conviction for assault and battery against a current or former spouse, a present spouse of a former spouse, parents, a foster parent, a child, a person otherwise related by blood or marriage, a person with whom the defendant is in a dating relationship as defined by Section 60.1 of Title 22 of the Oklahoma Statutes, an individual with whom the defendant has had a child, a person who formerly lived in the same household as the defendant, or any person living in the same household as the defendant, shall constitute a sufficient basis for a felony charge:

1. If that conviction is rendered in any state, county or parish court of record of this or any other state; or

2. If that conviction is rendered in any municipal court of record of this or any other state for which any jail time was served; provided, no conviction in a municipal court of record entered prior to November 1, 1997, shall constitute a prior conviction for purposes of a felony charge.

H. Any person who commits any assault and battery with intent to cause great bodily harm by strangulation or attempted strangulation against a current or former spouse, a present spouse of a former spouse, parents, a foster parent, a child, a person otherwise related by blood or marriage, a person with whom the defendant is in a dating relationship as defined by Section 60.1 of Title 22 of the Oklahoma Statutes, an individual with whom the defendant has had a child, a person who formerly lived in the same household as the defendant, or a person living in the same household as the defendant shall, upon conviction, be guilty of domestic abuse by strangulation and shall be punished by imprisonment in the State Penitentiary for a period of not less than one (1) year nor more than three (3) years, or by a fine of not more than Three Thousand Dollars (\$3,000.00), or by both such fine and imprisonment. Upon a second or subsequent conviction, the defendant shall be punished by imprisonment in the State Penitentiary for a period of not less than three (3) years nor more than ten (10) years, or by a fine of not more than Twenty Thousand Dollars (\$20,000.00), or by both such fine and imprisonment. As used in this subsection, "strangulation" means a form of asphyxia characterized by closure of the blood vessels or air passages of the neck as a result of external pressure on the neck.

I. Any district court of this state and any judge thereof shall be immune from any liability or prosecution for issuing an order that requires a defendant to:

1. Attend a treatment program for domestic abusers certified by the ~~Department of Mental Health and Substance Abuse Services~~ Attorney General;

2. Attend counseling or treatment services ordered as part of any suspended or deferred sentence or probation; and

3. Attend, complete, and be evaluated before and after attendance by a treatment program for domestic abusers, certified by the ~~Department of Mental Health and Substance Abuse Services~~ Attorney General.

J. There shall be no charge of fees or costs to any victim of domestic violence, stalking, or sexual assault in connection with the prosecution of a domestic violence, stalking, or sexual assault offense in this state.

K. In the course of prosecuting any charge of domestic abuse, stalking, harassment, rape, or violation of a protective order, the prosecutor shall provide the court, prior to sentencing or any plea agreement, a local history and any other available history of past convictions of the defendant within the last ten (10) years relating to domestic abuse, stalking, harassment, rape, violation of a

protective order, or any other violent misdemeanor or felony convictions.

L. For purposes of subsection D of this section, "great bodily injury" means bone fracture, protracted and obvious disfigurement, protracted loss or impairment of the function of a body part, organ or mental faculty, or substantial risk of death.

SECTION 10. AMENDATORY 43A O.S. 2001, Section 1-102, as amended by Section 1, Chapter 46, O.S.L. 2003 (43A O.S. Supp. 2004, Section 1-102), is amended to read as follows:

Section 1-102. A. ~~he~~ The purpose of the Mental Health Law is to provide for the humane care and treatment of persons who:

1. Are mentally ill; or
2. Require treatment for drug or alcohol abuse;~~or~~
- ~~3. Require domestic violence or sexual assault services.~~

B. All such residents of this state are entitled to care and treatment in accordance with the appropriate standard of care.

SECTION 11. AMENDATORY 43A O.S. 2001, Section 2-103, as last amended by Section 5 of Enrolled Senate Bill No. 561 of the 1st Session of the 50th Oklahoma Legislature, is amended to read as follows:

Section 2-103. A. The Board of Mental Health and Substance Abuse Services shall be composed of eleven (11) members, appointed by the Governor, with the advice and consent of the Senate, as follows:

1. One member, who shall be a physician licensed to practice in this state, and one member, who shall be a psychiatrist certified as a diplomate of the American Board of Psychiatry and Neurology, shall both be appointed from a list containing the names of not less than three physicians and not less than three psychiatrists submitted to the Governor by the Oklahoma State Medical Association;

2. One member, who shall be an attorney licensed to practice in this state and shall be appointed from a list of not less than three names submitted to the Governor by the Board of Governors of the Oklahoma Bar Association;

3. One member, who shall be a psychologist, licensed to practice in this state, who shall be appointed from a list of not less than three names submitted to the Governor by the Oklahoma State Psychological Association;

4. Three members, qualified by education and experience in the area of substance abuse recovery, who shall be appointed from a list of not less than ten names submitted to the Governor by a state association of substance abuse recovery programs or organizations for terms ending on December 31, 2002, December 31, 2004, and December 31, 2006, respectively; and

~~5. One member, qualified by experience in the area of domestic violence or sexual assault, who shall be appointed from a list of not less than three names submitted to the Governor by a state association of domestic violence and sexual assault programs or organizations for a term ending December 31, 2000; and~~

~~6. Three~~ 5. Four members who shall be citizens of this state, at least one of whom shall be either a current or former consumer of mental health services.

B. Upon expiration of the initial terms of each of the four members, a successor shall be appointed for a full term of seven (7) years.

C. No person shall be appointed a member of the Board who has been a member of the Legislature of this state within the preceding five (5) years.

D. The Board shall elect from among its members a chair and a vice-chair. The chair may call meetings at any time.

E. All regularly scheduled meetings of the Board shall be held at the Central Office of the Department of Mental Health and Substance Abuse Services, Oklahoma City, Oklahoma, unless otherwise scheduled. Six members shall constitute a quorum at any meeting, and all action may be taken by an affirmative vote of the majority of the members present at any such meeting.

F. The action taken by the Board on any matter, or any document passed by the Board, shall be considered official when such action is placed in writing and signed by the chair or vice-chair.

G. The duties of the Board shall pertain to the care, treatment, and hospitalization of persons with mental illness, or alcohol- or drug-dependent persons, ~~and victims of domestic violence or sexual assault.~~

H. Members of the Board of Mental Health and Substance Abuse Services shall be allowed their necessary travel expenses pursuant to the provisions of the State Travel Reimbursement Act.

SECTION 12. AMENDATORY Section 9, Chapter 46, O.S.L. 2003 (43A O.S. Supp. 2004, Section 2-224), is amended to read as follows:

Section 2-224. A. The Department of Mental Health and Substance Abuse Services shall have the authority to collect information sufficient to meet the administration's needs related to oversight, management, evaluation, performance improvement and auditing of mental health, and substance abuse, ~~domestic violence and sexual assault~~ services and combating and preventing mental illness, and substance abuse, ~~domestic violence and sexual assault.~~

B. The individual forms, computer tapes and other forms of data collected by and furnished to the Department shall be confidential and shall not be public records as defined in the Oklahoma Open

Records Act, ~~Section 24A.1 et seq. of Title 51 of the Oklahoma Statutes.~~

Except as otherwise provided by state and federal confidentiality laws, identifying information shall not be disclosed and shall not be used for any public purpose other than the creation and maintenance of anonymous datasets for statistical reporting and data analysis.

SECTION 13. AMENDATORY 43A O.S. 2001, Section 3-302, as amended by Section 15, Chapter 46, O.S.L. 2003 (43A O.S. Supp. 2004, Section 3-302), is amended to read as follows:

Section 3-302. As used in the Unified Community Mental Health Services Act:

1. "Certified behavioral health case manager" means any person who is certified by the Department of Mental Health and Substance Abuse Services to offer behavioral health case management services within the confines of a mental health facility, ~~domestic violence or sexual assault program~~, or services for alcohol and drug dependents, that is operated by the Department or contracts with the state to provide behavioral services;

2. "Case management" means the application of case management principles and practices of linking, advocacy and referral in partnership with the consumer to support the consumer in self-sufficiency and community tenure for consumers of mental health or substance abuse ~~and domestic violence and sexual assault~~ services;

3. "Catchment area or service area" means a geographic area established by the Department of Mental Health and Substance Abuse Services;

4. "Community mental health center" means a facility offering:

- a. a comprehensive array of community-based mental health services, including, but not limited to, inpatient treatment, outpatient treatment, partial hospitalization, emergency care, consultation and education, and
- b. certain services at the option of the center, including, but not limited to, prescreening, rehabilitation services, pre-care and aftercare, training programs, and research and evaluation programs;

5. "Community mental health services", in conformance with federal requirements, means services for the treatment of alcoholism, drug addiction or abuse, and mental illness, and the prevention, diagnosis, or rehabilitation of such persons;

6. "Mental health facility" means:

- a. a community mental health center,

- b. an outpatient facility offering diagnostic and treatment services,
- c. a day care facility offering a treatment program for children or adults suffering from mental or emotional problems, or
- d. community residential mental health programs and facilities which provide supervised residential care, counseling, case management or other similar services to children or adults suffering from mental or emotional problems;

~~7. "Domestic violence program" or "sexual assault program" means a facility, agency or organization which offers or provides or a person who engages in the offering of shelter, residential services or support services to:~~

- ~~a. victims or survivors of domestic abuse as defined in Section 60.1 of Title 22 of the Oklahoma Statutes, any dependent children of said victims or survivors and any other member of the family or household of such victim or survivor,~~
- ~~b. victims or survivors of sexual assault,~~
- ~~c. persons who are homeless as a result of domestic or sexual violence or both domestic and sexual violence, and~~
- ~~d. persons who commit domestic violence,~~

~~and which may provide other services, including, but not limited to, counseling, case management, referrals or other similar services to victims or survivors of domestic abuse or sexual assault;~~

~~8. "Day treatment program" means a structured, comprehensive program designed to improve or maintain a person's ability to function in the community, which includes, but is not limited to, nonresidential, partial hospitalization programs, and day hospital programs; and~~

~~9. 8. "Program of assertive community treatment" means a facility, agency or organization that offers or provides a self-contained clinical team, under the medical supervision of a licensed psychiatrist, to provide needed treatment, rehabilitation, and support services to individuals with serious mental illness who have severe symptoms and impairments not effectively remedied by available treatments or to individuals who resist or avoid involvement in other needed mental health services.~~

SECTION 14. AMENDATORY 22 O.S. 2001, Section 60.1, as amended by Section 1, Chapter 407, O.S.L. 2003 (22 O.S. Supp. 2004, Section 60.1), is amended to read as follows:

Section 60.1 As used in the Protection from Domestic Abuse Act and in the Domestic Abuse Reporting Act, Sections 40.5 through 40.7

of this title and Section 150.12B of Title 74 of the Oklahoma Statutes:

1. "Domestic abuse" means any act of physical harm, or the threat of imminent physical harm which is committed by an adult, emancipated minor, or minor child thirteen (13) years of age or older against another adult, emancipated minor or minor child who are family or household members or who are or were in a dating relationship;

2. "Stalking" means the willful, malicious, and repeated following of a person by an adult, emancipated minor, or minor thirteen (13) years of age or older, with the intent of placing the person in reasonable fear of death or great bodily injury;

3. "Harassment" means a knowing and willful course or pattern of conduct by a family or household member or an individual who is or has been involved in a dating relationship with the person, directed at a specific person which seriously alarms or annoys the person, and which serves no legitimate purpose. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial distress to the person. "Harassment" shall include, but not be limited to, harassing or obscene telephone calls in violation of Section 1172 of Title 21 of the Oklahoma Statutes and fear of death or bodily injury;

4. "Family or household members" means:

- a. spouses,
- b. ex-spouses,
- c. present spouses of ex-spouses,
- d. parents, including grandparents, stepparents, adoptive parents and foster parents,
- e. children, including grandchildren, stepchildren, adopted children and foster children,
- f. persons otherwise related by blood or marriage,
- g. persons living in the same household or who formerly lived in the same household, and
- h. persons who are the biological parents of the same child, regardless of their marital status, or whether they have lived together at any time. This shall include the elderly and handicapped;

5. "Dating relationship" means a courtship or engagement relationship. For purposes of this act, a casual acquaintance or ordinary fraternization between persons in a business or social context shall not constitute a dating relationship;

6. "Foreign protective order" means any valid order of protection issued by a court of another state or a tribal court;

7. "Rape" means rape and rape by instrumentation in violation of Sections 1111 and 1111.1 of Title 21 of the Oklahoma Statutes;

8. "Victim support person" means a person affiliated with a certified domestic violence or sexual assault program, certified by the ~~Department of Mental Health and Substance Abuse Services~~ Attorney General or certified by a recognized Native American Tribe if operating mainly within tribal lands, who provides support and assistance for a person who files a petition under the Protection from Domestic Violence Act; and

9. "Mutual protective order" means a final protective order or orders issued to both a plaintiff who has filed a petition for a protective order and a defendant included as the defendant in the plaintiff's petition restraining the parties from committing domestic violence, stalking, harassment or rape against each other. If both parties allege domestic abuse, violence, stalking, harassment or rape against each other, the parties shall do so by separate petition pursuant to Section 60.4 of this title.

SECTION 15. AMENDATORY 22 O.S. 2001, Section 60.4, as amended by Section 4, Chapter 407, O.S.L. 2003 (22 O.S. Supp. 2004, Section 60.4), is amended to read as follows:

Section 60.4 A. 1. A copy of the petition, notice of hearing and a copy of any emergency ex parte order issued by the court shall be served upon the defendant in the same manner as a bench warrant. In addition, if the service is to be in another county, the court clerk may issue service to the sheriff by facsimile or other electronic transmission for service by the sheriff. Any fee for service of an emergency ex parte order, petition for protective order, and notice of hearing shall only be charged pursuant to subsection C of Section 60.2 of this title and, if charged, shall be the same as the sheriff's service fee plus mileage expenses.

2. Emergency ex parte orders shall be given priority for service and can be served twenty-four (24) hours a day when the location of the defendant is known. When service cannot be made upon the defendant by the sheriff, the sheriff may contact another law enforcement officer or a private investigator or private process server to serve the defendant.

3. An emergency ex parte order, a petition for protective order, and a notice of hearing shall have statewide validity and may be transferred to any law enforcement jurisdiction to effect service upon the defendant.

4. The return of service shall be submitted to the sheriff's office in the court where the petition, notice of hearing or order was issued.

5. When the defendant is a minor child who is ordered removed from the residence of the victim, in addition to those documents served upon the defendant, a copy of the petition, notice of hearing

and a copy of any ex parte order issued by the court shall be delivered with the child to the caretaker of the place where such child is taken pursuant to Section 7303-1.1 of Title 10 of the Oklahoma Statutes.

B. 1. Within twenty (20) days of the filing of the petition for a protective order, the court shall schedule a full hearing on the petition, if the court finds sufficient grounds within the scope of the Protection from Domestic Abuse Act stated in the petition to hold such a hearing, regardless of whether an emergency ex parte order has been previously issued, requested or denied. Provided, however, when the defendant is a minor child who has been removed from the residence pursuant to Section 7303-1.1 of Title 10 of the Oklahoma Statutes, the court shall schedule a full hearing on the petition within seventy-two (72) hours, regardless of whether an emergency ex parte order has been previously issued, requested or denied.

2. The court may schedule a full hearing on the petition for a protective order within seventy-two (72) hours when the court issues an emergency ex parte order suspending child visitation rights due to physical violence or threat of abuse.

3. If service has not been made on the defendant at the time of the hearing, the court shall continue the hearing.

4. A petition for a protective order shall automatically renew every twenty (20) days until the defendant is served. A petition for a protective order shall not expire and must be dismissed by court order.

5. Failure to serve the defendant shall not be grounds for dismissal of a petition or an ex parte order unless the victim requests dismissal.

C. 1. At the hearing, the court may impose any terms and conditions in the protective order that the court reasonably believes are necessary to bring about the cessation of domestic abuse against the victim or stalking or harassment of the victim or the victim's immediate family and may order the defendant to obtain domestic abuse counseling or treatment in a program certified by the ~~Department of Mental Health and Substance Abuse Services~~ Attorney General at the defendant's expense pursuant to Section 644 of Title 21 of the Oklahoma Statutes.

2. If the court grants a protective order and the defendant is a minor child, the court shall order a preliminary inquiry in a juvenile proceeding to determine whether further court action pursuant to the Oklahoma Juvenile Code should be taken against a juvenile defendant.

D. Final protective orders authorized by this section shall be on a standard form developed by the Administrative Office of the Courts.

E. 1. After notice and hearing, protective orders authorized by this section may require the plaintiff or the defendant or both

to undergo treatment or participate in the court-approved counseling services necessary to bring about cessation of domestic abuse against the victim pursuant to Section 644 of Title 21 of the Oklahoma Statutes.

2. Either party or both may be required to pay all or any part of the cost of such treatment or counseling services. The court shall not be responsible for such cost.

F. When necessary to protect the victim and when authorized by the court, protective orders granted pursuant to the provisions of this section may be served upon the defendant by a peace officer, sheriff, constable, or policeman or other officer whose duty it is to preserve the peace, as defined by Section 99 of Title 21 of the Oklahoma Statutes.

G. 1. Any protective order issued on or after November 1, 1999, pursuant to subsection C of this section shall be for a fixed period not to exceed a period of three (3) years unless extended, modified, vacated or rescinded upon motion by either party or if the court approves any consent agreement entered into by the plaintiff and defendant.

2. The court shall notify the parties at the time of the issuance of the protective order of the duration of the protective order.

3. Upon the filing of a motion by either party to modify, extend, or vacate a protective order, a hearing shall be scheduled and notice given to the parties. At the hearing, the issuing court may take such action as is necessary under the circumstances.

4. If a child has been removed from the residence of a parent or custodial adult because of domestic abuse committed by the child, the parent or custodial adult may refuse the return of such child to the residence, unless upon further consideration by the court in a juvenile proceeding, it is determined that the child is no longer a threat and should be allowed to return to the residence.

H. 1. It shall be unlawful for any person to knowingly and willfully seek a protective order against a spouse or ex-spouse pursuant to the Protection from Domestic Abuse Act for purposes of harassment, undue advantage, intimidation, or limitation of child visitation rights in any divorce proceeding or separation action without justifiable cause.

2. The violator shall, upon conviction thereof, be guilty of a misdemeanor punishable by imprisonment in the county jail for a period not exceeding one (1) year or by a fine not to exceed Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

3. A second or subsequent conviction under this subsection shall be a felony punishable by imprisonment in the custody of the Department of Corrections for a period not to exceed two (2) years, or by a fine not to exceed Ten Thousand Dollars (\$10,000.00), or by both such fine and imprisonment.

I. 1. A protective order issued under the Protection from Domestic Abuse Act shall not in any manner affect title to real property, purport to grant to the parties a divorce or otherwise purport to determine the issues between the parties as to child custody, visitation or visitation schedules, child support or division of property or any other like relief obtainable pursuant to Title 43 of the Oklahoma Statutes, except child visitation orders may be temporarily suspended or modified to protect from threats of abuse or physical violence by the defendant or a threat to violate a custody order.

2. When granting any protective order for the protection of a minor child from violence or threats of abuse, the court shall allow visitation only under conditions that provide adequate supervision and protection to the child while maintaining the integrity of a divorce decree or temporary order.

J. 1. A court shall not issue any mutual protective orders.

2. If both parties allege domestic abuse by the other party, the parties shall do so by separate petitions. The court shall review each petition separately, in an individual or a consolidated hearing and grant or deny each petition on its individual merits. If the court finds cause to grant both motions, the court shall do so by separate orders and with specific findings justifying the issuance of each order.

3. The court may only consolidate a hearing if:

a. the court makes specific findings that:

(1) sufficient evidence exists of domestic abuse, stalking, harassment or rape against each party, and

(2) each party acted primarily as aggressors, and

b. the defendant filed a petition with the court for a protective order no less than three (3) days, not including weekends or holidays, prior to the first scheduled full hearing on the petition filed by the plaintiff, and

c. the defendant had no less than forty-eight (48) hours' notice prior to the full hearing on the petition filed by the plaintiff.

K. The court may allow a plaintiff or victim to be accompanied by a victim support person at court proceedings. A victim support person shall not make legal arguments, however, a victim support person who is not a licensed attorney may offer the plaintiff or victim comfort or support and may remain in close proximity to the plaintiff or victim.

SECTION 16. AMENDATORY 22 O.S. 2001, Section 60.6, as amended by Section 2, Chapter 516, O.S.L. 2004 (22 O.S. Supp. 2004, Section 60.6), is amended to read as follows:

Section 60.6 A. Except as otherwise provided by this section, any person who:

1. Has been served with an ex parte or final protective order or foreign protective order and is in violation of such protective order, upon conviction, shall be guilty of a misdemeanor and shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00) or by a term of imprisonment in the county jail of not more than one (1) year, or both such fine and imprisonment;

2. After a previous conviction of a violation of a protective order, is convicted of a second offense pursuant to the provisions of this section shall, upon conviction, be deemed guilty of a misdemeanor and shall be punished by a term of imprisonment in the county jail of not less than ten (10) days and not more than one (1) year. In addition to the term of imprisonment, the person may be punished by a fine of not less than One Thousand Dollars (\$1,000.00) and not more than Five Thousand Dollars (\$5,000.00); and

3. Except as provided for in paragraphs 1 and 2 of subsection B of this section, after previous conviction of a violation of any protective order, is convicted of a third or subsequent offense pursuant to the provisions of this section shall be guilty of a felony and shall be punished by a term of imprisonment for not less than one (1) year nor more than three (3) years, or by a fine of not less than Two Thousand Dollars (\$2,000.00) nor more than Ten Thousand Dollars (\$10,000.00), or by both such fine and imprisonment.

B. 1. Any person who has been served with an ex parte or final protective order or foreign protective order who violates the protective order and causes physical injury or physical impairment to the plaintiff or to any other person named in said protective order shall, upon conviction, be guilty of a misdemeanor and shall be punished by a term of imprisonment in the county jail for not less than twenty (20) days nor more than one (1) year. In addition to the term of imprisonment, the person may be punished by a fine not to exceed Five Thousand Dollars (\$5,000.00).

2. Any person who is convicted of a second or subsequent violation of a protective order which causes physical injury or physical impairment to a plaintiff or to any other person named in the protective order shall be guilty of a felony and shall be punished by a term of imprisonment of not less than one (1) year nor more than five (5) years, or by a fine of not less than Three Thousand Dollars (\$3,000.00) nor more than Ten Thousand Dollars (\$10,000.00), or by both such fine and imprisonment.

3. In determining the term of imprisonment required by this section, the jury or sentencing judge shall consider the degree of physical injury or physical impairment to the victim.

4. The provisions of this subsection shall not affect the applicability of Sections 644, 645, 647 and 652 of Title 21 of the Oklahoma Statutes.

C. The minimum sentence of imprisonment issued pursuant to the provisions of paragraphs 2 and 3 of subsection A and paragraph 1 of subsection B of this section shall not be subject to statutory provisions for suspended sentences, deferred sentences or probation, provided the court may subject any remaining penalty under the jurisdiction of the court to the statutory provisions for suspended sentences, deferred sentences or probation.

D. In addition to any other penalty specified by this section, the court shall require a defendant to undergo the treatment or participate in the counseling services necessary to bring about the cessation of domestic abuse against the victim or to bring about the cessation of stalking or harassment of the victim. For every conviction of violation of a protective order:

1. The court shall specifically order as a condition of a suspended sentence or probation that a defendant participate in counseling or undergo treatment to bring about the cessation of domestic abuse as specified in paragraph 2 of this subsection;

2. a. The court shall require the defendant to participate in counseling or undergo treatment for domestic abuse by an individual licensed practitioner or a domestic abuse counseling program approved by the court or a domestic abuse treatment program certified by the ~~Department of Mental Health and Substance Abuse Services~~ Attorney General. If the defendant is ordered to participate in a domestic abuse counseling or treatment program, the order shall require the defendant to attend the program for a minimum of fifty-two (52) weeks, complete the program, and be evaluated before and after attendance of the program by a program counselor or a private counselor.
- b. A program for anger management, couples counseling, or family and marital counseling shall not solely qualify for the counseling or treatment requirement for domestic abuse pursuant to this subsection. The counseling may be ordered in addition to counseling specifically for the treatment of domestic abuse or per evaluation as set forth below. If, after sufficient evaluation and attendance at required counseling sessions, the domestic violence treatment program or licensed professional determines that the defendant does not evaluate as a perpetrator of domestic violence or does evaluate as a perpetrator of domestic violence and should complete other programs of treatment simultaneously or prior to domestic violence treatment, including but not limited to programs related to the mental health, apparent substance or alcohol abuse or inability or refusal to manage anger, the defendant shall be ordered to complete the counseling as per the recommendations of the domestic violence treatment program or licensed professional;

3. a. The court shall set a review hearing no more than one hundred twenty (120) days after the defendant is ordered to participate in a domestic abuse counseling program or undergo treatment for domestic abuse to assure the attendance and compliance of the defendant with the provisions of this subsection and the domestic abuse counseling or treatment requirements.
- b. The court shall set a second review hearing after the completion of the counseling or treatment to assure the attendance and compliance of the defendant with the provisions of this subsection and the domestic abuse counseling or treatment requirements. The court shall retain continuing jurisdiction over the defendant during the course of ordered counseling through the final review hearing;

4. The court may set subsequent or other review hearings as the court determines necessary to assure the defendant attends and fully complies with the provisions of this subsection and the domestic abuse counseling or treatment requirements;

5. At any review hearing, if the defendant is not satisfactorily attending individual counseling or a domestic abuse counseling or treatment program or is not in compliance with any domestic abuse counseling or treatment requirements, the court may order the defendant to further or continue counseling, treatment, or other necessary services. The court may revoke all or any part of a suspended sentence, deferred sentence, or probation pursuant to Section 991b of Title 22 of the Oklahoma Statutes and subject the defendant to any or all remaining portions of the original sentence;

6. At the first review hearing, the court shall require the defendant to appear in court. Thereafter, for any subsequent review hearings, the court may accept a report on the progress of the defendant from individual counseling, domestic abuse counseling, or the treatment program. There shall be no requirement for the victim to attend review hearings; and

7. If funding is available, a referee may be appointed and assigned by the presiding judge of the district court to hear designated cases set for review under this subsection. Reasonable compensation for the referees shall be fixed by the presiding judge. The referee shall meet the requirements and perform all duties in the same manner and procedure as set forth in Sections 7003-8.6 and 7303-7.5 of Title 10 of the Oklahoma Statutes pertaining to referees appointed in juvenile proceedings.

E. Ex parte and final protective orders shall include notice of these penalties.

F. When a minor child violates the provisions of any protective order, the violation shall be heard in a juvenile proceeding and the court may order the child and the parent or parents of the child to participate in family counseling services necessary to bring about the cessation of domestic abuse against the victim and may order

community service hours to be performed in lieu of any fine or imprisonment authorized by this section.

G. Any district court of this state and any judge thereof shall be immune from any liability or prosecution for issuing an order that requires a defendant to:

1. Attend a treatment program for domestic abusers certified by the ~~Department of Mental Health and Substance Abuse Services~~ Attorney General;

2. Attend counseling or treatment services ordered as part of any final protective order or for any violation of a protective order; and

3. Attend, complete, and be evaluated before and after attendance by a treatment program for domestic abusers certified by the ~~Department of Mental Health and Substance Abuse Services~~ Attorney General.

H. At no time, under any proceeding, may a person protected by a protective order be held to be in violation of that protective order. Only a defendant against whom a protective order has been issued may be held to have violated the order.

SECTION 17. AMENDATORY 22 O.S. 2001, Section 1602, is amended to read as follows:

Section 1602. A. The Domestic Violence Fatality Review Board shall be composed of ~~sixteen (16)~~ seventeen (17) members, or their designees, as follows:

1. ~~Seven~~ Eight of the members shall be:

- a. the Chief Medical Examiner,
- b. a designee of the ~~Commissioner of the Department of Mental Health and Substance Abuse Services~~ Attorney General. The designee shall be a person assigned to the ~~Domestic Violence and Sexual Assault Services Division~~ Victims Services Unit of the ~~Department~~ Office of the Attorney General,
- c. the State Commissioner of Health,
- d. the Director of the Criminal Justice Resource Center,
- e. the Chief of Injury Prevention Services of the State Department of Health,
- f. a member of the Oklahoma Council on Violence Prevention, ~~and~~
- g. the Director of the Oklahoma State Bureau of Investigation, and

- h. the Commissioner of the Department of Mental Health and Substance Abuse Services; and

2. Nine of the members shall be appointed by the ~~Commissioner of the Oklahoma Department of Mental Health and Substance Abuse Services~~ Attorney General, shall serve for terms of two (2) years and shall be eligible for reappointment. The members shall be persons having training and experience in matters related to domestic violence. The appointed members shall include:

- a. a county sheriff selected from a list submitted by the executive board of the Oklahoma Sheriff's Association,
- b. a chief of a municipal police department selected from a list submitted by the Oklahoma Association of Chiefs of Police,
- c. an attorney licensed in this state who is in private practice selected from a list submitted by the ~~executive board~~ Board of Governors of the Oklahoma Bar Association,
- d. a district attorney selected from a list submitted by the District Attorneys Council,
- e. a physician selected from a list submitted by the Oklahoma State Medical Association,
- f. a physician selected from a list submitted by the Oklahoma Osteopathic Association,
- g. a nurse selected from a list submitted by the Oklahoma Nurses Association, and
- h. two individuals, at least one of whom shall be a survivor of domestic violence, selected from lists submitted by the Oklahoma Coalition Against Domestic Violence and Sexual Assault.

B. Every two (2) years the Board shall elect from among its membership a chair and a vice-chair. The Board shall meet at least quarterly and may meet more frequently as necessary as determined by the chair. Members shall serve without compensation but may be reimbursed for necessary travel out of funds available to the Oklahoma Criminal Justice Resource Center pursuant to the State Travel Reimbursement Act; provided, that the reimbursement shall be paid in the case of state employee members by the agency employing the member.

C. With funds appropriated or otherwise available for that purpose, the Criminal Justice Resource Center shall provide administrative assistance and services to the Domestic Violence Fatality Review Board.

SECTION 18. AMENDATORY 63 O.S. 2001, Section 1-227.4, is amended to read as follows:

Section 1-227.4 A. The Commission on Children and Youth shall appoint an interagency child abuse prevention task force which shall be composed of sixteen (16) members as follows:

1. Two of whom shall be representatives of the child welfare services of the Department of Human Services;

2. One of whom shall be a representative of the maternal and child health services of the State Department of Health;

3. One of whom shall be a representative of the child guidance services of the State Department of Health;

4. One of whom shall be a representative of the Department of Education;

5. ~~Three~~ Two of whom shall be representatives of the Department of Mental Health and Substance Abuse Services, one each with expertise in the treatment of mental illness, and substance abuse ~~and domestic violence~~;

6. One representative of the Office of the Attorney General with expertise in the area of domestic abuse;

7. One of whom shall be a representative of the Office of the Chief Medical Examiner;

~~7.~~ 8. One of whom shall be a representative of the Oklahoma Chapter of the American Academy of Pediatrics;

~~8.~~ 9. One of whom shall be a representative of the judiciary, the legal profession, or law enforcement; and

~~9.~~ 10. Five of whom shall be persons having expertise in the identification and treatment of families at risk of child abuse and neglect and who shall be representatives of private agencies, programs and services for the prevention of child abuse and neglect. One of the five shall be a licensed psychologist.

B. The Office of Child Abuse Prevention and the interagency child abuse prevention task force of the Oklahoma Commission on Children and Youth shall prepare the comprehensive state plan for prevention of child abuse and neglect for the approval of the Commission. The development and preparation of said plan shall include but not be limited to:

1. Adequate opportunity for appropriate local private and public agencies and organizations and private citizens to participate in the development of the state plan at the local level. Appropriate local groups shall include but not be limited to community mental health centers, district attorney's offices, courts having juvenile docket responsibility, school boards, private or public programs with recognized expertise in working with families at risk of child abuse and neglect, voluntary self-help abuse prevention and treatment programs, day care centers, law enforcement and private or public programs with expertise in maternal and infant health care;

2. Guidelines for the formation of the district child abuse prevention task forces provided for in Section 1-227.5 of this title and establishment of a basic format to be utilized by the district task forces in the preparation of district plans, the provision of technical assistance to district task forces as requested and review of the district plans in order to determine compliance with the provisions of subsection E of Section 1-227.5 of this title; and

3. Incorporation of the district plans and information provided by district task forces and public and private agencies into the comprehensive state plan.

C. 1. The interagency child abuse prevention task force and the Office of Child Abuse Prevention shall review and evaluate all proposals submitted for grants or contracts for child abuse prevention programs and services. Upon completion of such review and evaluation, the interagency child abuse prevention task force and the Office of Child Abuse Prevention shall make the final recommendations as to which proposals should be funded pursuant to the provisions of the Child Abuse Prevention Act and shall submit its findings to the Oklahoma Commission on Children and Youth. The Commission shall review the findings of the interagency child abuse prevention task force and the Office of Child Abuse Prevention for compliance of such approved proposals with the comprehensive state plan and district plans prepared pursuant to the provisions of the Child Abuse Prevention Act.

2. Upon ascertaining compliance with said plans, the Commission shall deliver the findings of the interagency child abuse prevention task force and the Office of Child Abuse Prevention to the Commissioner of Health.

3. The Commissioner shall authorize the Office of Child Abuse Prevention to use the Child Abuse Prevention Fund to fund such grants or contracts for child abuse prevention programs and services which are approved by the Commissioner.

4. Whenever the Commissioner approves a grant or contract which was not recommended by the interagency task force and the Office of Child Abuse Prevention, the Commissioner shall state in writing the reason for such decision.

SECTION 19. REPEALER 43A O.S. 2001, Sections 3-313, as last amended by Section 1, Chapter 389, O.S.L. 2004, 3-313a, 3-314, 3-314.1, as last amended by Section 2, Chapter 389, O.S.L. 2004, and 3-314.2, as last amended by Section 15 of Enrolled Senate Bill No. 561 of the 1st Session of the 50th Oklahoma Legislature (43A O.S. Supp. 2004, Sections 3-313, 3-314.1 and 3-314.2), are hereby repealed.

SECTION 20. This act shall become effective July 1, 2005.

SECTION 21. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the XX day of XXX, 2005.

Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____,
2005.

Presiding Officer of the House
of Representatives