

ENROLLED SENATE
BILL NO. 664

By: Leftwich of the Senate

and

Peters of the House

An Act relating to domestic and child abuse; amending 10 O.S. 2001, Section 7102, as last amended by Section 4, Chapter 258, O.S.L. 2006 (10 O.S. Supp. 2006, Section 7102), which relates to protection of children; modifying definition; amending 10 O.S. 2001, Section 7307-1.4, as amended by Section 2, Chapter 53, O.S.L. 2005 (10 O.S. Supp. 2006, Section 7307-1.4), which relates to juvenile court records; updating statutory reference; amending 22 O.S. 2001, Section 40.1, as amended by Section 2, Chapter 466, O.S.L. 2002, Section 3, Chapter 53, O.S.L. 2005, and 22 O.S. 2001, Section 60.6, as last amended by Section 4, Chapter 284, O.S.L. 2006 (22 O.S. Supp. 2006, Sections 40.1, 58 and 60.6), which relate to rights of victims of rape or forcible sodomy, reporting of domestic abuse, and violations of protective orders; modifying entity to establish certain service; updating statutory reference; modifying authorized counseling or treatment programs; amending Sections 1, 3, 6 and 7, Chapter 348, O.S.L. 2005 (74 O.S. Supp. 2006, Sections 18p-1, 18p-3, 18p-6 and 18p-7), which relate to the Victim Services Unit of the Office of the Attorney General; modifying definitions; authorizing Attorney General to contract for certain services; requiring promulgation of certain rules and standards; adding exception; allowing injunction against certain program; and providing an effective date.

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

SECTION 1. AMENDATORY 10 O.S. 2001, Section 7102, as last amended by Section 4, Chapter 258, O.S.L. 2006 (10 O.S. Supp. 2006, Section 7102), is amended to read as follows:

Section 7102. A. 1. It is the policy of this state to provide for the protection of children who have been abused or neglected and who may be further threatened by the conduct of persons responsible for the health, safety or welfare of such children.

2. It is the policy of this state that in responding to a report of child abuse or neglect:

- a. in any necessary removal of a child from the home,
- b. in placements of a child required pursuant to the Oklahoma Child Abuse Reporting and Prevention Act, and
- c. in any administrative or judicial proceeding held pursuant to the provisions of the Oklahoma Child Abuse Reporting and Prevention Act,

that the best interests of the child shall be of paramount consideration.

B. Except as otherwise provided by and used in the Oklahoma Child Abuse Reporting and Prevention Act:

1. "Abuse" means harm or threatened harm to a child's health, safety or welfare by a person responsible for the child's health, safety or welfare, including sexual abuse and sexual exploitation;

2. "Harm or threatened harm to a child's health or safety" includes, but is not limited to:

- a. nonaccidental physical or mental injury,
- b. sexual abuse,

- c. sexual exploitation,
- d. neglect,
- e. failure or omission to provide protection from harm or threatened harm, or
- f. abandonment;

3. "Neglect" means failure or omission to provide:

- a. adequate food, clothing, shelter, medical care, and supervision,
- b. special care made necessary by the physical or mental condition of the child, or
- c. abandonment;

4. "Child" means any unmarried person under the age of eighteen (18) years, except any person convicted of a crime specified in Section 7306-1.1 of this title or any person who has been certified as an adult pursuant to Section 7303-4.3 of this title and convicted of a felony;

5. "Person responsible for a child's health, safety or welfare" includes a parent; a legal guardian; a custodian; a foster parent; a person eighteen (18) years of age or older with whom the child's parent cohabitates or any other adult residing in the home of the child; an agent or employee of a public or private residential home, institution, facility or day treatment program as defined in Section 175.20 of this title; or an owner, operator, or employee of a child care facility as defined by Section 402 of this title;

6. "Sexual abuse" includes, but is not limited to, rape, incest and lewd or indecent acts or proposals made to a child, as defined by law, by a person responsible for the child's health, safety or welfare;

7. "Sexual exploitation" includes, but is not limited to, allowing, permitting, or encouraging a child to engage in

prostitution, as defined by law, by a person responsible for the child's health, safety or welfare or allowing, permitting, encouraging, or engaging in the lewd, obscene, or pornographic photographing, filming, or depicting of a child in those acts as defined by the state law, by a person responsible for the child's health, safety or welfare;

8. "Multidisciplinary child abuse team" means any freestanding team established pursuant to the provisions of Section 7110 of this title. For purposes of this definition, "freestanding" means a team not used by a child advocacy center for its accreditation;

9. "Child advocacy center" means a center and the multidisciplinary child abuse team of which it is a member that is accredited by the National Children's Alliance ~~and~~ or that is completing a sixth year of reaccreditation. Child advocacy centers shall be classified, based on the child population of a district attorney's district, as follows:

- a. nonurban centers in districts with child populations that are less than sixty thousand (60,000),
- b. mid-level nonurban centers in districts with child populations equal to or greater than sixty thousand (60,000), but not including Oklahoma and Tulsa Counties, and
- c. urban centers in Oklahoma and Tulsa Counties.

10. "Assessment" means a systematic process utilized by the Department of Human Services to respond to reports of alleged child abuse or neglect which, according to priority guidelines established by the Department, do not constitute a serious and immediate threat to the child's health, safety or welfare. The assessment includes, but is not limited to, the following elements:

- a. an evaluation of the child's safety, and
- b. a determination regarding the family's need for services;

11. "Investigation" means an approach utilized by the Department to respond to reports of alleged child abuse or neglect which, according to priority guidelines established by the Department, constitute a serious and immediate threat to the child's health or safety. An investigation includes, but is not limited to, the following elements:

- a. an evaluation of the child's safety or welfare,
- b. a determination whether or not child abuse or neglect occurred, and
- c. a determination regarding the family's need for prevention and intervention-related services;

12. "Services not needed determination" means a report in which a child protective services worker, after an investigation, determines that there is no identified risk of abuse or neglect;

13. "Services recommended determination" means a report in which a child protective services worker, after an investigation, determines the allegations to be unfounded or for which there is insufficient evidence to fully determine whether child abuse or neglect has occurred, but one in which the Department determines that the child and the child's family could benefit from receiving prevention and intervention-related services;

14. "Confirmed report - services recommended" means a report which is determined by a child protective services worker, after an investigation and based upon some credible evidence, to constitute child abuse or neglect which is of such a nature that the Department recommends prevention and intervention-related services for the parents or persons responsible for the care of the child or children, but for which initial court intervention is not required;

15. "Confirmed report - court intervention" means a report which is determined by a child protective services worker, after an investigation and based upon some credible evidence, to constitute child abuse or neglect which is of such a nature that the Department finds that the child's health, safety or welfare is threatened;

16. "Child protective services worker" means a person employed by the Department of Human Services with sufficient experience or training as determined by the Department in child abuse prevention and identification;

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

18. "Commission" means the Commission for Human Services; and

19. "Prevention and intervention-related services" means community-based programs that serve children and families on a voluntary and time-limited basis to help reduce the likelihood or incidence of child abuse and neglect.

SECTION 2. AMENDATORY 10 O.S. 2001, Section 7307-1.4, as amended by Section 2, Chapter 53, O.S.L. 2005 (10 O.S. Supp. 2006, Section 7307-1.4), is amended to read as follows:

Section 7307-1.4 A. Juvenile court records which are confidential may be inspected, and their contents shall be disclosed, without a court order to the following persons upon showing of proper credentials and pursuant to lawful duties:

1. The judge having the child currently before the court in any proceeding pursuant to the Oklahoma Juvenile Code, or any judge of the district court or tribal court to which such proceedings may be transferred;

2. Employees and officers of the court in the performance of their duties, including but not limited to guardians ad litem appointed by the court;

3. Members of review boards established pursuant to Sections 1116.2 and 1116.6 of this title. In addition to juvenile court records, any member of such review boards may inspect, without a court order, information including but not limited to:

a. psychological and medical records,

b. placement history and information, including the names and addresses of foster parents,

- c. family assessments,
- d. treatment or service plans, and
- e. school records;

4. A district attorney and the employees of an office of a district attorney in the course of their official duties;

5. The attorney representing a child who is the subject of a juvenile proceeding pursuant to the provisions of this chapter. The attorney representing a child or considering representing a child in a juvenile proceeding may also access other records listed in subsection A of Section 7307-1.2 of this title for use in the legal representation of the child;

6. Employees of juvenile bureaus in the course of their official duties;

7. Employees of the Department of Juvenile Justice in the course of their official duties;

8. Employees of a law enforcement agency in the course of their official duties pertaining to the investigation of a crime committed or alleged to have been committed by a person under eighteen (18) years of age. Records or information disclosed pursuant to this paragraph may consist of summaries or may be limited to the information or records necessary for the purpose of the investigation;

9. The Oklahoma Commission on Children and Youth;

10. The Department of Juvenile Justice or other public or private agency or any individual having court-ordered custody or custody pursuant to Department of Juvenile Justice placement of the child who is the subject of the record;

11. The Department of Human Services;

12. The child who is the subject of the record and the parents, legal guardian, legal custodian or foster parent of said child;

13. Any federally recognized Indian tribe in which the child who is the subject of the record is a member, or is eligible to become a member of the tribe due to the child being the biological child of a member of an Indian tribe pursuant to the Federal Indian Child Welfare Act, P.L. 95-608, and the Oklahoma Indian Child Welfare Act; provided such Indian tribe member, in the course of official duties:

- a. is investigating a report of known or suspected child abuse or neglect or crimes against children or for the purpose of determining whether to place a child in protective custody, or
- b. is providing services to or for the benefit of a child including but not limited to protective, emergency, social and medical services;

14. Any federally recognized Indian tribe in which the tribe, the tribal court or the tribal child welfare program has asserted jurisdiction or intervened in any case in which the child is the subject of the proceedings or is a party to the proceedings pursuant to the authority provided in the Oklahoma Indian Child Welfare Act.

The records that are to be provided to Indian tribes pursuant to the provisions of this subsection shall include all case records, reports and documents as defined in this chapter;

15. The Governor or to any person the Governor designates, in writing;

16. Any federal official of the United States Department of Health and Human Services;

17. Any member of the Legislature, upon the written approval of the Speaker of the House of Representatives or the President Pro Tempore of the Senate;

18. Employees of the Department of Corrections in the course of their official duties;

19. Employees of the United States Probation Office, in the course of their official duties; and

20. Domestic violence and sexual assault advocates employed by a certified domestic violence or sexual assault program pursuant to Section ~~3-313~~ 18p-6 of Title ~~43A~~ 74 of the Oklahoma Statutes, working within a law enforcement agency or court in the course of their assigned duties.

B. Records and their contents disclosed without an order of the court as provided by the provisions of this section shall remain confidential. The use of any information shall be limited to the purposes for which disclosure is authorized. It shall be unlawful for any person to furnish any confidential record or disclose any confidential information contained in any juvenile record for commercial, political or any other unauthorized purpose. Any person violating the provisions of this section shall, upon conviction, be guilty of a misdemeanor.

SECTION 3. AMENDATORY 22 O.S. 2001, Section 40.1, as amended by Section 2, Chapter 466, O.S.L. 2002 (22 O.S. Supp. 2006, Section 40.1), is amended to read as follows:

Section 40.1 Upon the preliminary investigation of any rape or forcible sodomy, it shall be the duty of the officer who interviews the victim of the rape or forcible sodomy to inform the victim, or a responsible adult if the victim is a minor child or an incompetent person, of the twenty-four-hour statewide telephone communication service established by the ~~Department of Mental Health and Substance Abuse Services~~ Office of the Attorney General for victims of sexual assault pursuant to Section ~~3-314~~ 18p-5 of Title ~~43A~~ 74 of the Oklahoma Statutes and to give notice to the victim or such responsible adult of certain rights of the victim. The notice shall consist of handing such victim or responsible adult a written statement in substantially the following form:

"As a victim of the crime of rape or forcible sodomy, you have certain rights. These rights are as follows:

1. The right to request that charges be pressed against your assailant;

2. The right to request protection from any harm or threat of harm arising out of your cooperation with law enforcement and

prosecution efforts as far as facilities are available and to be provided with information on the level of protection available;

3. The right to be informed of financial assistance and other social services available to victims, including information on how to apply for the assistance and services;

4. The right to a free medical examination for the procurement of evidence to aid in the prosecution of your assailant; and

5. The right to be informed by the district attorney of other victim's rights available pursuant to Section 215.33 of Title 19 of the Oklahoma Statutes."

The written notice shall also include the telephone number of the twenty-four-hour statewide telephone communication service established by the ~~Department of Mental Health and Substance Abuse Services~~ Office of the Attorney General in Section ~~3-314~~ 18p-5 of Title ~~43A~~ 74 of the Oklahoma Statutes.

SECTION 4. AMENDATORY Section 3, Chapter 53, O.S.L. 2005 (22 O.S. Supp. 2006, Section 58), is amended to read as follows:

Section 58. A. Criminally injurious conduct, as defined by the Oklahoma Crime Victims Compensation Act, which appears to be or is reported by the victim to be domestic abuse, as defined in Section 60.1 of ~~Title 22 of the Oklahoma Statutes~~ this title, or domestic abuse by strangulation, domestic abuse resulting in great bodily harm, or domestic abuse in the presence of a child, as defined in Section 644 of Title 21 of the Oklahoma Statutes, shall be reported according to the standards for reporting as set forth in subsection B of this section.

B. Except as provided for in Section 7104 of Title 10 of the Oklahoma Statutes, any physician, surgeon, resident, intern, physician's assistant, registered nurse, or any other health care professional examining, attending, or treating the victim of what appears to be domestic abuse or is reported by the victim to be domestic abuse, as defined in Section 60.1 of ~~Title 22 of the Oklahoma Statutes~~ this title, or domestic abuse by strangulation, domestic abuse resulting in great bodily harm, or domestic abuse in the presence of a child, as defined in Section 644 of Title 21 of

the Oklahoma Statutes, shall not be required to report any incident of what appears to be or is reported to be domestic abuse, domestic abuse by strangulation, domestic abuse resulting in great bodily harm, or domestic abuse in the presence of a child if:

1. Committed upon the person of an adult who is over the age of eighteen (18) years; and
2. The person is not an incapacitated adult.

C. Any physician, surgeon, resident, intern, physician's assistant, registered nurse, or any other health care professional examining, attending, or treating a victim shall be required to report any incident of what appears to be or is reported to be domestic abuse, domestic abuse by strangulation, domestic abuse resulting in great bodily harm, or domestic abuse in the presence of a child, if requested to do so either orally or in writing by the victim. A report of any incident shall be promptly made orally or by telephone to the nearest law enforcement agency in the county wherein the domestic abuse occurred or, if the location where the conduct occurred is unknown, the report shall be made to the law enforcement agency nearest to the location where the injury is treated.

D. In all cases of what appears to be or is reported to be domestic abuse, the physician, surgeon, resident, intern, physician's assistant, registered nurse, or any other health care professional examining, attending, or treating the victim of what appears to be domestic abuse shall clearly and legibly document the incident and injuries observed and reported, as well as any treatment provided or prescribed.

E. In all cases of what appears to be or is reported to be domestic abuse, the physician, surgeon, resident, intern, physician's assistant, registered nurse, or any other health care professional examining, attending or treating the victim of what appears to be domestic abuse shall refer the victim to domestic violence and victim services programs, including providing the victim with the twenty-four-hour statewide telephone communication service established by Section ~~3-314~~ 18p-5 of Title ~~43A~~ 74 of the Oklahoma Statutes.

F. Every physician, surgeon, resident, intern, physician's assistant, registered nurse, or any other health care professional making a report of domestic abuse pursuant to this section or examining a victim of domestic abuse to determine the likelihood of domestic abuse, and every hospital or related institution in which the victim of domestic abuse was examined or treated shall, upon the request of a law enforcement officer conducting a criminal investigation into the case, provide copies of the results of the examination or copies of the examination on which the report was based, and any other clinical notes, x-rays, photographs, and other previous or current records relevant to the case to the investigating law enforcement officer.

SECTION 5. AMENDATORY 22 O.S. 2001, Section 60.6, as last amended by Section 4, Chapter 284, O.S.L. 2006 (22 O.S. Supp. 2006, 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; and

2. After a previous conviction of a violation of a protective order, is convicted of a second or subsequent offense pursuant to the provisions of this section shall, upon conviction, be guilty of a felony and shall be punished by a term of imprisonment in the custody of the Department of Corrections 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 in the custody of the Department of Corrections 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 paragraph 2 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 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 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 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 6. AMENDATORY Section 1, Chapter 348, O.S.L. 2005 (74 O.S. Supp. 2006, Section 18p-1), is amended to read as follows:

Section 18p-1. 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~~ Victims of stalking,

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 or stalking.

D. As used in this act, "batterers intervention program" or "batterers treatment program" means an agency, organization, facility or person who offers, provides or engages in the offering of counseling or intervention services to persons who commit domestic abuse.

SECTION 7. AMENDATORY Section 3, Chapter 348, O.S.L. 2005 (74 O.S. Supp. 2006, Section 18p-3), is amended to read as follows:

Section 18p-3. 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 or batterers intervention programs. Any domestic violence ~~or~~, sexual assault or batterers intervention program providing services pursuant to certification by the Attorney General or 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 8. AMENDATORY Section 6, Chapter 348, O.S.L. 2005 (74 O.S. Supp. 2006, Section 18p-6), is amended to read as follows:

Section 18p-6. 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 batterers intervention and 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 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 persons who commit domestic abuse, 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, the Department of Corrections or the Department of Human Services. The batterers intervention, 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 9. AMENDATORY Section 7, Chapter 348, O.S.L. 2005 (74 O.S. Supp. 2006, Section 18p-7), is amended to read as follows:

Section 18p-7. A. The Attorney General or any district attorney, in such person's discretion, may bring an action for an injunction against any batterers intervention, domestic violence program or sexual assault program found to be in violation of the provisions of ~~Title 74 of the Oklahoma Statutes~~ this title 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 10. This act shall become effective November 1, 2007.

Passed the Senate the 8th day of May, 2007.

Presiding Officer of the Senate

Passed the House of Representatives the 23rd day of April, 2007.

Presiding Officer of the House
of Representatives