

1 ENGROSSED HOUSE AMENDMENT  
TO  
2 ENGROSSED SENATE BILL NO. 1601 By: Burrage of the Senate  
3 and  
4 Peters of the House  
5  
6

7 An Act relating to mental health; amending 43A O.S.  
8 2001, Section 10-110, which relates to the Protective  
9 Services for Vulnerable Adults Act; prohibiting  
10 certain expungement; providing for exception;  
11 requiring use of certain case numbers; providing for  
12 certain written notice; and providing an effective  
13 date.

12 AMENDMENT NO. 1. Strike the title, enacting clause and entire bill  
13 and insert

14 "An Act relating to mental health; amending 43A O.S.  
15 2001, Section 10-110, which relates to the  
16 Protective Services for Vulnerable Adults Act;  
17 prohibiting certain expungement; providing for  
18 exception; requiring use of certain case numbers;  
19 providing for certain written notice; creating the  
20 Vulnerable Adult Intervention Task Force; providing  
21 for purpose; establishing the task force; providing  
22 for appointments; providing for duties; requiring  
23 certain report; providing for codification;  
24 providing an effective date; and declaring an  
emergency.

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

23 SECTION 1. AMENDATORY 43A O.S. 2001, Section 10-110, is  
24 amended to read as follows:

1 Section 10-110. A. The reports, records, and working papers  
2 used or developed in an investigation of the circumstances of a  
3 vulnerable adult pursuant to the provisions of the Protective  
4 Services for Vulnerable Adults Act are confidential and may be  
5 disclosed only pursuant to rules promulgated by the Commission for  
6 Human Services, by order of the court or as otherwise provided by  
7 this section.

8 B. Department of Human Services agency records pertaining to a  
9 vulnerable adult may be inspected and their contents disclosed  
10 without a court order to the following persons upon showing of  
11 proper credentials and pursuant to their lawful duties:

12 1. A district attorney and the employees of an office of a  
13 district attorney in the course of their official duties pursuant to  
14 this title or the prosecution of crimes against vulnerable adults;

15 2. The attorney representing a vulnerable adult who is the  
16 subject of a proceeding pursuant to the provisions of the Protective  
17 Services for Vulnerable Adults Act;

18 3. Employees of a law enforcement agency of this or another  
19 state and employees of protective services for vulnerable adults of  
20 another state;

21 4. A physician who has before him or her a vulnerable adult  
22 whom the physician reasonably suspects may have been abused or  
23 neglected or any health care or mental health professional involved  
24 in the evaluation or treatment of the vulnerable adult;

1           5. A caretaker, legal guardian, custodian or other family  
2 members of the vulnerable adult; provided the Department may limit  
3 such disclosures to summaries or to information directly necessary  
4 for the purpose of such disclosure;

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

9           7. Any public or private agency or person authorized by the  
10 Department to supervise or provide other services to a vulnerable  
11 adult who is the subject of a report or record of vulnerable adult  
12 abuse or neglect; provided, the Department may limit such disclosure  
13 to summaries or to information directly necessary for the purpose of  
14 such disclosure; and

15           8. Any person or agency for research purposes, if all of the  
16 following conditions are met:

17           a. the person or agency conducting such research is  
18 employed by the State of Oklahoma or is under contract  
19 with this state and is authorized by the Department of  
20 Human Services to conduct such research, and

21           b. the person or agency conducting the research ensures  
22 that all documents containing identifying information  
23 are maintained in secure locations and access to such  
24 documents by unauthorized persons is prohibited; that

1 no identifying information is included in documents  
2 generated from the research conducted; and that all  
3 identifying information is deleted from documents used  
4 in the research when the research is completed.

5 C. Nothing in this section shall be construed as prohibiting  
6 the Department from disclosing such confidential information as may  
7 be necessary to secure appropriate care, treatment or protection of  
8 a vulnerable adult alleged to be abused or neglected.

9 D. Records and their contents disclosed pursuant to this  
10 section shall remain confidential. The use of such information  
11 shall be limited to the purposes for which disclosure is authorized.  
12 It shall be unlawful and a misdemeanor for any person to furnish any  
13 record or disclose any information contained therein for any  
14 unauthorized purpose.

15 E. Records of investigations conducted pursuant to the  
16 Protective Services for Vulnerable Adults Act shall not be expunged  
17 except by court order.

18 1. If the Department is currently or was previously appointed  
19 as temporary guardian of the alleged victim of abuse, neglect,  
20 financial exploitation, or financial neglect, any petition or motion  
21 requesting expungement of the investigative records of the  
22 Department shall be filed under the same case number.

23 2. Written notice of the hearing and a copy of any such  
24 petition or motion shall be properly and timely served upon:

- 1           a. the alleged victim of abuse, neglect, financial  
2           exploitation, or financial neglect,  
3           b. the Department's Office of General Counsel and any  
4           other counsel of record in a proceeding in which the  
5           Department was appointed as temporary guardian, and  
6           c. all other persons due notice in a guardianship  
7           proceeding involving the victim pursuant to Section 3-  
8           110 of Title 30 of the Oklahoma Statutes.

9           SECTION 2.           NEW LAW           A new section of law to be codified  
10          in the Oklahoma Statutes as Section 10-112 of Title 43A, unless  
11          there is created a duplication in numbering, reads as follows:

12           A.   Contingent upon funding, the Department of Human Services,  
13          together with the Department of Mental Health and Substance Abuse  
14          Services, shall develop and implement a Vulnerable Adult  
15          Intervention Task Force. The purpose of the task force shall be to  
16          study and examine how to best provide interdisciplinary community  
17          assistance, intervention, and referral services for persons with  
18          mental or physical illnesses or disabilities, dementia or other  
19          related disease or condition.

20           B.   The task force shall consist of at least eleven (11) members  
21          as follows:

22           1.   One member, who shall be a member of the Oklahoma House of  
23          Representatives, to be appointed by the Speaker of the Oklahoma  
24          House of Representatives, and one member who shall be a member of

1 the Oklahoma Senate, to be appointed by the President Pro Tempore of  
2 the Oklahoma Senate;

3 2. Commissioner of the Department of Mental Health and  
4 Substance Abuse Services, or designee;

5 3. Commissioner of the State Department of Health, or designee;

6 4. Director of the State Department of Rehabilitation Services,  
7 or designee;

8 5. One member who shall be a representative from law  
9 enforcement, to be appointed by the Senate President Pro Tempore;

10 6. One member who shall be a current or former municipal  
11 employee who worked as a code enforcement officer, to be appointed  
12 by the Speaker of the House of Representatives;

13 7. One member who shall be a public defender, or designee, to  
14 be appointed by the Governor;

15 8. One member who shall be a citizen of this state and a  
16 current or former member of an advocacy organization that represents  
17 vulnerable adults or persons with mental illness, to be appointed by  
18 the House Minority Leader;

19 9. One member who shall be a physician licensed to practice in  
20 this state, to be appointed by the Senate Minority Leader; and

21 10. The Director of the Department of Human Services, or  
22 designee.

23 Members of the task force shall serve for a thirty-month term.  
24

1 C. Appointments to the task force shall be made by July 1,  
2 2010. The first meeting shall be convened on or before August 1,  
3 2010. A majority of the members present at a meeting shall  
4 constitute a quorum to do business. Members of the task force shall  
5 receive no compensation for their service, but shall receive travel  
6 reimbursement by the appointing authority pursuant to the State  
7 Travel Reimbursement Act.

8 D. The task force is authorized to meet as necessary in order  
9 to perform the duties imposed on it.

10 E. The task force shall recommend a curriculum, which at a  
11 minimum should include training for individuals on the symptoms,  
12 causes and evidence-based services and interventions for illnesses  
13 and conditions contained herein. The training should also address  
14 possible crisis situations arising from these illnesses and  
15 conditions and steps to support an individual in a crisis situation.

16 F. On or before December 31, 2010, and annually thereafter, the  
17 task force shall submit a report to the Legislature stating the  
18 recommendations and findings of the task force including but not  
19 limited to suggested legislative action, funding sources, state  
20 agency action, and numbers of potential participants in recommended  
21 programs, either as a team member who promotes services or a  
22 recipient of services, and any recommendations for improvement of  
23 the program.

24

1 G. The task force shall be subject to the provisions of the  
2 Open Records Act and the Open Meeting Act. Staff assistance for the  
3 task force shall be provided by the staff of the Oklahoma House of  
4 Representatives and the Oklahoma State Senate.

5 SECTION 3. This act shall become effective July 1, 2010.

6 SECTION 4. It being immediately necessary for the preservation  
7 of the public peace, health and safety, an emergency is hereby  
8 declared to exist, by reason whereof this act shall take effect and  
9 be in full force from and after its passage and approval."

10 Passed the House of Representatives the 13th day of April, 2010.

11

12

13 \_\_\_\_\_  
Presiding Officer of the House of  
14 Representatives

15 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2010.

16

17

18 \_\_\_\_\_  
Presiding Officer of the Senate

19

20

21

22

23

24