

1 ENGROSSED HOUSE  
2 BILL NO. 2776

By: Steele of the House

and

Justice of the Senate

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7 An Act relating to mental health; amending 43A O.S.  
8 2001, Section 10-110, which relates to  
9 confidentiality of certain records and reports;  
10 providing for exception; defining terms; authorizing  
11 the release of certain information in vulnerable  
12 adult abuse or neglect cases; specifying information  
13 to be released; allowing for the release of certain  
14 information upon request after a certain period of  
15 time; requiring the release of certain information of  
16 previous cases or complaints; prohibiting the release  
17 of certain information; providing for codification;  
18 and providing an effective date.

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

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

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

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

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

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

11 3. Employees of a law enforcement agency of this or another  
12 state and employees of protective services for vulnerable adults of  
13 another state;

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

18 5. A caretaker, legal guardian, custodian or other family  
19 members of the vulnerable adult; provided the Department may limit  
20 such disclosures to summaries or to information directly necessary  
21 for the purpose of such disclosure;

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

3 7. Any public or private agency or person authorized by the  
4 Department to supervise or provide other services to a vulnerable  
5 adult who is the subject of a report or record of vulnerable adult  
6 abuse or neglect; provided the Department may limit such disclosure  
7 to summaries or to information directly necessary for the purpose of  
8 such disclosure; and

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

11 a. the person or agency conducting such research is  
12 employed by the State of Oklahoma or is under contract  
13 with this state and is authorized by the Department of  
14 Human Services to conduct such research, and

15 b. the person or agency conducting the research ensures  
16 that all documents containing identifying information  
17 are maintained in secure locations and access to such  
18 documents by unauthorized persons is prohibited; that  
19 no identifying information is included in documents  
20 generated from the research conducted; and that all  
21 identifying information is deleted from documents used  
22 in the research when the research is completed.

23 C. Nothing in this section shall be construed as prohibiting  
24 the Department from disclosing such confidential information as may

1 be necessary to secure appropriate care, treatment or protection of  
2 a vulnerable adult alleged to be abused or neglected.

3 D. Records and their contents disclosed pursuant to this  
4 section shall remain confidential. The use of such information  
5 shall be limited to the purposes for which disclosure is authorized.  
6 It shall be unlawful and a misdemeanor for any person to furnish any  
7 record or disclose any information contained therein for any  
8 unauthorized purpose.

9 SECTION 2. NEW LAW A new section of law to be codified  
10 in the Oklahoma Statutes as Section 10-110.1 of Title 43A, unless  
11 there is created a duplication in numbering, reads as follows:

12 A. For purposes of this section:

13 1. "Near death" means the vulnerable adult is in serious or  
14 critical condition, as certified by a physician, as a result of  
15 abuse or neglect; and

16 2. "Vulnerable adult" shall be defined as provided in Section  
17 10-103 of Title 43A of the Oklahoma Statutes.

18 B. When a person responsible for the care of a vulnerable adult  
19 has been charged by information or indictment with committing a  
20 crime resulting in the death or near death of the vulnerable adult,  
21 there shall be a presumption that the best interest of the public is  
22 served by public disclosure of certain information concerning:

23 1. The circumstances of the investigation of the death or near  
24 death of the vulnerable adult; and

1           2. Any other investigations concerning that vulnerable adult,  
2 or other vulnerable adults living in the same facility, or involving  
3 an individual provider of services to vulnerable adults, within:

- 4           a. three (3) years of the death or near death, and
- 5           b. one (1) year after the death or near death.

6           C. 1. At any time subsequent to seven (7) days of the date the  
7 person providing care to the vulnerable adult has been criminally  
8 charged, the Department of Human Services Adult Protective Services  
9 Division, the district attorney, the district court clerk, and the  
10 judge having jurisdiction over the case, upon request, shall release  
11 certain information to the public as follows:

- 12           a. a confirmation shall be provided by the Department as  
13           to whether a report has been made concerning the  
14           alleged victim or other vulnerable adults while living  
15           in the same household or facility and whether an  
16           investigation has begun,
- 17           b. confirmation shall be provided by the Department as to  
18           whether previous reports have been made and the dates  
19           thereof, a summary of those previous reports, the  
20           dates and outcome of any investigations or actions  
21           taken by the Department in response to a previous  
22           report of abuse or neglect of vulnerable adults, and  
23           the specific recommendation made to the district

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1 attorney and any subsequent action taken by the  
2 district attorney,

3 c. the dates of any judicial proceedings prior to the  
4 death or near death of the vulnerable adult,

5 d. recommendations submitted by each participant in  
6 writing at the judicial proceedings including  
7 recommendation made at the hearing as they relate to  
8 appropriate placement of a vulnerable adult, and

9 e. the rulings of the court.

10 2. Specific recommendations made and services rendered by the  
11 Department of Human Services Adult Protective Services Division  
12 described in any progress reports of a pending case submitted to the  
13 court may be disclosed by the Department.

14 D. Any disclosure of information pursuant to this section shall  
15 not identify or provide an identifying description of any  
16 complainant or reporter of vulnerable adult abuse or neglect, and  
17 shall not identify the name of other vulnerable adults in the  
18 household or facility, the person responsible for the care of the  
19 vulnerable adult, or any other member of the facility or household,  
20 other than the person criminally charged.

21 SECTION 3. This act shall become effective November 1, 2010.  
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1 Passed the House of Representatives the 16th day of February,  
2 2010.

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5 Presiding Officer of the House of  
6 Representatives

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

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10 Presiding Officer of the Senate

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