

1 ENGROSSED HOUSE
2 BILL NO. 2906

By: Morgan, Pittman, Luttrell,
Roan and Hoskin of the
House

3
4 and

Eason McIntyre of the
Senate

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8 An Act relating to mental health; amending 43A O.S.
9 2001, Section 10-104, as last amended by Section 3,
10 Chapter 68, O.S.L. 2007 (43A O.S. Supp. 2009, Section
11 10-104), which relates to report required for
12 vulnerable adult suffering abuse; adding municipal
13 employees to entities required to make report;
14 creating the Vulnerable Adult Intervention Team Pilot
15 Program; providing for purpose; establishing the
16 interdisciplinary team; providing for appointments;
17 providing for duties; requiring certain report;
18 providing for codification; and declaring an
19 emergency.

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

23 SECTION 1. AMENDATORY 43A O.S. 2001, Section 10-104, as
24 last amended by Section 3, Chapter 68, O.S.L. 2007 (43A O.S. Supp.
2009, Section 10-104), is amended to read as follows:

Section 10-104. A. Any person having reasonable cause to
believe that a vulnerable adult is suffering from abuse, neglect, or
exploitation shall make a report as soon as the person is aware of
the situation to:

1. The Department of Human Services; or

1 2. The municipal police department or sheriff's office in the
2 county in which the suspected abuse, neglect, or exploitation
3 occurred.

4 B. Persons required to make reports pursuant to this section
5 shall include, but not be limited to:

6 1. Physicians;

7 2. Operators of emergency response vehicles and other medical
8 professionals;

9 3. Social workers and mental health professionals;

10 4. Law enforcement officials;

11 5. Staff of domestic violence programs;

12 6. Long-term care facility personnel, including staff of
13 nursing facilities, intermediate care facilities for persons with
14 mental retardation, assisted living facilities, and residential care
15 facilities;

16 7. Other health care professionals;

17 8. Persons entering into transactions with a caretaker or other
18 person who has assumed the role of financial management for a
19 vulnerable adult;

20 9. Staff of residential care facilities, group homes, or
21 employment settings for individuals with developmental disabilities;

22 ~~and~~

23 10. Job coaches, community service workers, and personal care
24 assistants; and

1 11. Municipal employees.

2 C. 1. If the report is not made in writing in the first
3 instance, as soon as possible after it is initially made by
4 telephone or otherwise, the report shall be reduced to writing by
5 the Department of Human Services, in accordance with rules
6 promulgated by the Commission for Human Services, or the local
7 municipal police or sheriff's department whichever entity received
8 the initial report. The report shall contain the following
9 information:

- 10 a. the name and address of the vulnerable adult,
- 11 b. the name and address of the caretaker, guardian, or
12 person having power of attorney over the vulnerable
13 adult's resources if any,
- 14 c. a description of the current location of the
15 vulnerable adult,
- 16 d. a description of the current condition of the
17 vulnerable adult, and
- 18 e. a description of the situation which may constitute
19 abuse, neglect or exploitation of the vulnerable
20 adult.

21 2. If federal law specifically prohibits the disclosure of any
22 of the information required by this subsection, that information may
23 be excluded from the report.

1 D. If the initial report is made to the local municipal police
2 department or sheriff's office, such police department or sheriff's
3 office shall notify, as soon as possible, the Department of Human
4 Services of its investigation.

5 E. Any person who knowingly and willfully fails to promptly
6 report any abuse, neglect, or exploitation as required by the
7 provisions of subsection A of this section, upon conviction, shall
8 be guilty of a misdemeanor punishable by imprisonment in the county
9 jail for a term not exceeding one (1) year or by a fine of not more
10 than One Thousand Dollars (\$1,000.00), or by both such fine and
11 imprisonment.

12 F. 1. Any person participating in good faith and exercising
13 due care in the making of a report pursuant to the provisions of
14 this section shall have immunity from any civil or criminal
15 liability that might otherwise be incurred or imposed. Any such
16 participant shall have the same immunity with respect to
17 participation in any judicial proceeding resulting from the report.

18 2. The same immunity from any civil or criminal liability shall
19 also be extended to previous employers of a person employed to be
20 responsible for the care of a vulnerable adult, who in good faith
21 report to new employers or prospective employers of such caretaker
22 any misconduct of the caretaker including, but not limited to,
23 abuse, neglect or exploitation of a vulnerable adult, whether
24 confirmed or not.

1 G. Any person who willfully or recklessly makes a false report
2 shall be civilly liable for any actual damages suffered by the
3 person being reported and for any punitive damages set by the court
4 or jury which may be allowed in the discretion of the court or jury.

5 H. 1. Every physician or other health care professional making
6 a report concerning the abuse, neglect or exploitation of a
7 vulnerable adult, as required by this section, or examining a
8 vulnerable adult to determine the likelihood of abuse, neglect or
9 exploitation, and every hospital in which a vulnerable adult is
10 examined or treated for abuse, neglect or exploitation shall
11 disclose necessary health information related to the case and
12 provide, upon request by either the Department of Human Services or
13 the local municipal police or sheriff's department receiving the
14 initial report, copies of the results or the records of the
15 examination on which the report was based, and any other clinical
16 notes, x-rays or photographs and other health information which is
17 related to the case if:

18 a. the vulnerable adult agrees to the disclosure of the
19 health information, or

20 b. the individual is unable to agree to the disclosure of
21 health information because of incapacity; and

22 (1) the requesting party represents that the health
23 information for which disclosure is sought is not
24 intended to be used against the vulnerable adult

1 in a criminal prosecution but to provide
2 protective services pursuant to the Protective
3 Services for Vulnerable Adults Act,

4 (2) the disclosure of the information is necessary to
5 conduct an investigation into the alleged abuse,
6 neglect or exploitation of the vulnerable adult
7 subject to the investigation, and

8 (3) immediate enforcement activity that depends upon
9 the disclosure:

10 (a) is necessary to protect the health, safety
11 and welfare of the vulnerable adult because
12 of incapacity, or

13 (b) would be materially and adversely affected
14 by waiting until the vulnerable adult is
15 able to agree to the disclosure.

16 2. If federal law specifically prohibits the disclosure of any
17 of the information required by this subsection, that information may
18 be excluded from the disclosed health information.

19 I. After investigating the report, either the county office of
20 the Department of Human Services or the municipal police department
21 or sheriff's office, as appropriate, shall forward its findings to
22 the office of the district attorney in the county in which the
23 suspected abuse, neglect, or exploitation occurred.

1 J. Any state or county medical examiner or physician who has
2 reasonable cause to suspect that the death of any vulnerable adult
3 may be the result of abuse or neglect as defined by Section 10-103
4 of this title shall make a report to the district attorney or other
5 law enforcement official of the county in which the death occurred.
6 The report shall include the name of the person making the report,
7 the name of the deceased person, the facts or other evidence
8 supporting such suspicion, and any other health information that may
9 be of assistance to the district attorney in conducting an
10 investigation into the matter.

11 K. No employer shall terminate the employment, prevent or
12 impair the practice or occupation of or impose any other sanction on
13 any employee solely for the reason that the employee made or caused
14 to be made a report or cooperated with an investigation pursuant to
15 the Protective Services for Vulnerable Adults Act. A court, in
16 addition to other damages and remedies, may assess reasonable
17 attorney fees against an employer who has been found to have
18 violated the provisions of this subsection.

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

22 A. Contingent upon funding, the Department of Human Services,
23 together with the Department of Mental Health and Substance Abuse
24 Services, shall develop and implement a Vulnerable Adult

1 Intervention Team Pilot Program. The purpose of this pilot program
2 shall be to provide interdisciplinary community assistance,
3 intervention, and referral services for persons with mental or
4 physical illnesses or disabilities, dementia or other related
5 disease or condition.

6 B. The interdisciplinary team shall consist of at least nine
7 (9) members as follows:

8 1. Director of the Department of Human Services, or designee;

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

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

12 4. Director of the State Department of Rehabilitation Services,
13 or designee;

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

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

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

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

1 9. One member who shall be a physician licensed to practice in
2 this state, to be appointed by the Senate Minority Leader.
3 Members of the interdisciplinary team shall serve for a thirty-month
4 term.

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

12 D. The interdisciplinary team shall provide interdisciplinary
13 community assistance, intervention, and referral services for
14 persons with mental or physical illness or disabilities, dementia or
15 other related disease or condition.

16 E. The interdisciplinary team shall recommend a curriculum,
17 which at a minimum should include training for individuals on the
18 symptoms, causes and evidence-based services and interventions for
19 illnesses and conditions contained herein. The training should also
20 address possible crisis situations arising from these illnesses and
21 conditions and steps to support an individual in a crisis situation.

22 F. The state agencies represented on the interdisciplinary team
23 shall enter into agreements, or amend existing agreements, to the
24 extent allowed by state and federal law, to share information with

1 the interdisciplinary team and specific navigation support teams
2 that support the mission of this section.

3 G. On or before December 31, 2010, and annually thereafter, the
4 interdisciplinary team shall submit a report to the Legislature
5 stating the number of participants in the program as a team member
6 or a recipient of services, the number of individuals who received
7 navigation support team training, and any recommendations for
8 improvement of the program.

9 H. The interdisciplinary team shall advise each agency of the
10 changes as necessary to implement the provisions of this section and
11 shall have the authority to enter into contracts to implement this
12 section.

13 SECTION 3. It being immediately necessary for the preservation
14 of the public peace, health and safety, an emergency is hereby
15 declared to exist, by reason whereof this act shall take effect and
16 be in full force from and after its passage and approval.

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1 Passed the House of Representatives the 4th day of March, 2010.

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4 Presiding Officer of the House of
Representatives

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6 Passed the Senate the ____ day of _____, 2010.

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9 Presiding Officer of the Senate