

THE HOUSE OF REPRESENTATIVES  
Thursday, February 11, 2010

House Bill No. 2776

HOUSE BILL NO. 2776 - By: STEELE of the House and JUSTICE of the Senate.

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

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

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

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

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

- 1           1. A district attorney and the employees of an office of a district attorney in the  
2 course of their official duties pursuant to this title or the prosecution of crimes against  
3 vulnerable adults;
- 4           2. The attorney representing a vulnerable adult who is the subject of a proceeding  
5 pursuant to the provisions of the Protective Services for Vulnerable Adults Act;
- 6           3. Employees of a law enforcement agency of this or another state and employees of  
7 protective services for vulnerable adults of another state;
- 8           4. A physician who has before him or her a vulnerable adult whom the physician  
9 reasonably suspects may have been abused or neglected or any health care or mental  
10 health professional involved in the evaluation or treatment of the vulnerable adult;
- 11          5. A caretaker, legal guardian, custodian or other family members of the vulnerable  
12 adult; provided the Department may limit such disclosures to summaries or to  
13 information directly necessary for the purpose of such disclosure;
- 14          6. Any public or private agency or person authorized by the Department to  
15 diagnose, provide care and treatment to a vulnerable adult who is the subject of a report  
16 or record of vulnerable adult abuse or neglect;
- 17          7. Any public or private agency or person authorized by the Department to  
18 supervise or provide other services to a vulnerable adult who is the subject of a report or  
19 record of vulnerable adult abuse or neglect; provided the Department may limit such  
20 disclosure to summaries or to information directly necessary for the purpose of such  
21 disclosure; and

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

3           a.     the person or agency conducting such research is employed by the  
4                 State of Oklahoma or is under contract with this state and is  
5                 authorized by the Department of Human Services to conduct such  
6                 research, and

7           b.     the person or agency conducting the research ensures that all  
8                 documents containing identifying information are maintained in  
9                 secure locations and access to such documents by unauthorized  
10                persons is prohibited; that no identifying information is included in  
11                documents generated from the research conducted; and that all  
12                identifying information is deleted from documents used in the research  
13                when the research is completed.

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

17           D. Records and their contents disclosed pursuant to this section shall remain  
18 confidential. The use of such information shall be limited to the purposes for which  
19 disclosure is authorized. It shall be unlawful and a misdemeanor for any person to  
20 furnish any record or disclose any information contained therein for any unauthorized  
21 purpose.

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

4 A. For purposes of this section:

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

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

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

13 1. The circumstances of the investigation of the death or near death of the  
14 vulnerable adult; and

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

18 a. three (3) years of the death or near death, and

19 b. one (1) year after the death or near death.

20 C. 1. At any time subsequent to seven (7) days of the date the person providing  
21 care to the vulnerable adult has been criminally charged, the Department of Human  
22 Services Adult Protective Services Division, the district attorney, the district court clerk,

1 and the judge having jurisdiction over the case, upon request, shall release certain  
2 information to the public as follows:

- 3 a. a confirmation shall be provided by the Department as to whether a  
4 report has been made concerning the alleged victim or other vulnerable  
5 adults while living in the same household or facility and whether an  
6 investigation has begun,
- 7 b. confirmation shall be provided by the Department as to whether  
8 previous reports have been made and the dates thereof, a summary of  
9 those previous reports, the dates and outcome of any investigations or  
10 actions taken by the Department in response to a previous report of  
11 abuse or neglect of vulnerable adults, and the specific recommendation  
12 made to the district attorney and any subsequent action taken by the  
13 district attorney,
- 14 c. the dates of any judicial proceedings prior to the death or near death of  
15 the vulnerable adult,
- 16 d. recommendations submitted by each participant in writing at the  
17 judicial proceedings including recommendation made at the hearing as  
18 they relate to appropriate placement of a vulnerable adult, and
- 19 e. the rulings of the court.

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

1 D. Any disclosure of information pursuant to this section shall not identify or  
2 provide an identifying description of any complainant or reporter of vulnerable adult  
3 abuse or neglect, and shall not identify the name of other vulnerable adults in the  
4 household or facility, the person responsible for the care of the vulnerable adult, or any  
5 other member of the facility or household, other than the person criminally charged.

6 SECTION 3. This act shall become effective November 1, 2010.

7 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC HEALTH, dated 02-10-10 - DO  
8 PASS, As Coauthored.