

HB 2906

THE HOUSE OF REPRESENTATIVES
Monday, March 1, 2010

House Bill No. 2906
As Amended

HOUSE BILL NO. 2906 - By: MORGAN AND PITTMAN of the House and EASON MCINTYRE of the Senate.

[mental health - Vulnerable Adult Intervention Team Pilot Program –
appointments – duties – codification –
emergency]

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

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

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

- 7 1. The Department of Human Services; or
8 2. The municipal police department or sheriff's office in the county in which the
9 suspected abuse, neglect, or exploitation occurred.

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

- 12 1. Physicians;

- 1 2. Operators of emergency response vehicles and other medical professionals;
- 2 3. Social workers and mental health professionals;
- 3 4. Law enforcement officials;
- 4 5. Staff of domestic violence programs;
- 5 6. Long-term care facility personnel, including staff of nursing facilities,
- 6 intermediate care facilities for persons with mental retardation, assisted living facilities,
- 7 and residential care facilities;
- 8 7. Other health care professionals;
- 9 8. Persons entering into transactions with a caretaker or other person who has
- 10 assumed the role of financial management for a vulnerable adult;
- 11 9. Staff of residential care facilities, group homes, or employment settings for
- 12 individuals with developmental disabilities; ~~and~~
- 13 10. Job coaches, community service workers, and personal care assistants; and
- 14 11. Municipal employees.

15 C. 1. If the report is not made in writing in the first instance, as soon as possible

16 after it is initially made by telephone or otherwise, the report shall be reduced to writing

17 by the Department of Human Services, in accordance with rules promulgated by the

18 Commission for Human Services, or the local municipal police or sheriff's department

19 whichever entity received the initial report. The report shall contain the following

20 information:

21 a. the name and address of the vulnerable adult,

- 1 b. the name and address of the caretaker, guardian, or person having
- 2 power of attorney over the vulnerable adult's resources if any,
- 3 c. a description of the current location of the vulnerable adult,
- 4 d. a description of the current condition of the vulnerable adult, and
- 5 e. a description of the situation which may constitute abuse, neglect or
- 6 exploitation of the vulnerable adult.

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

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

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

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

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

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

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

- 19 a. the vulnerable adult agrees to the disclosure of the health information,
20 or
21 b. the individual is unable to agree to the disclosure of health information
22 because of incapacity; and

- 1 (1) the requesting party represents that the health information for
2 which disclosure is sought is not intended to be used against the
3 vulnerable adult in a criminal prosecution but to provide
4 protective services pursuant to the Protective Services for
5 Vulnerable Adults Act,
6 (2) the disclosure of the information is necessary to conduct an
7 investigation into the alleged abuse, neglect or exploitation of
8 the vulnerable adult subject to the investigation, and
9 (3) immediate enforcement activity that depends upon the
10 disclosure:
11 (a) is necessary to protect the health, safety and welfare of
12 the vulnerable adult because of incapacity, or
13 (b) would be materially and adversely affected by waiting
14 until the vulnerable adult is able to agree to the
15 disclosure.

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

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

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

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

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

18 A. Contingent upon funding, the Department of Human Services, together with the
19 Department of Mental Health and Substance Abuse Services, shall develop and
20 implement a Vulnerable Adult Intervention Team Pilot Program. The purpose of this
21 pilot program shall be to provide interdisciplinary community assistance, intervention,

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1 and referral services for persons with mental or physical illnesses or disabilities,
2 dementia or other related disease or condition.

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

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

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

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

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

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

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

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

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

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

21 Members of the interdisciplinary team shall serve for a thirty-month term.

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

7 D. The interdisciplinary team shall provide interdisciplinary community
8 assistance, intervention, and referral services for persons with mental or physical illness
9 or disabilities, dementia or other related disease or condition.

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

15 F. The state agencies represented on the interdisciplinary team shall enter into
16 agreements, or amend existing agreements, to the extent allowed by state and federal
17 law, to share information with the interdisciplinary team and specific navigation support
18 teams that support the mission of this section.

19 G. On or before December 31, 2010, and annually thereafter, the interdisciplinary
20 team shall submit a report to the Legislature stating the number of participants in the
21 program as a team member or a recipient of services, the number of individuals who

1 received navigation support team training, and any recommendations for improvement of
2 the program.

3 H. The interdisciplinary team shall advise each agency of the changes as necessary
4 to implement the provisions of this section and shall have the authority to enter into
5 contracts to implement this section.

6 SECTION 3. It being immediately necessary for the preservation of the public
7 peace, health and safety, an emergency is hereby declared to exist, by reason whereof
8 this act shall take effect and be in full force from and after its passage and approval.
9 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET,
10 dated 02-25-10 - DO PASS, As Amended and Coauthored.