

THE HOUSE OF REPRESENTATIVES
Tuesday, April 6, 2010

ENGROSSED

Senate Bill No. 1601

ENGROSSED SENATE BILL NO. 1601 - By: BURRAGE of the Senate and PETERS of the House.

An Act relating to mental health; amending 43A O.S. 2001, Section 10-110, which relates to the Protective Services for Vulnerable Adults Act; prohibiting certain expungement; providing for exception; requiring use of certain case numbers; providing for certain written notice; 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.

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

3 1. If the Department is currently or was previously appointed as temporary
4 guardian of the alleged victim of abuse, neglect, financial exploitation, or financial
5 neglect, any petition or motion requesting expungement of the investigative records of
6 the Department shall be filed under the same case number;

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

9 a. the alleged victim of abuse, neglect, financial exploitation, or financial
10 neglect,

11 b. the Department's Office of General Counsel and any other counsel of
12 record in a proceeding in which the Department was appointed as
13 temporary guardian, and

14 c. all other persons due notice in a guardianship proceeding involving the
15 victim pursuant to Section 3-110 of Title 30 of the Oklahoma Statutes.

16 SECTION 2. This act shall become effective November 1, 2010.

17 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET,
18 dated 04-05-10 - DO PASS.