

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 SENATE BILL 1601

By: Burrage

4
5 AS INTRODUCED

6 An Act relating to mental health; amending 43A O.S.
7 2001, Section 10-110, which relates to the Protective
8 Services for Vulnerable Adults Act; prohibiting
9 certain expungement; providing for exception;
10 requiring use of certain case numbers; providing for
11 certain written notice; and providing an effective
12 date.

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

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

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

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

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

1 abuse or neglect; provided, the Department may limit such disclosure
2 to summaries or to information directly necessary for the purpose of
3 such disclosure; and

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

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

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

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

22 D. Records and their contents disclosed pursuant to this
23 section shall remain confidential. The use of such information
24 shall be limited to the purposes for which disclosure is authorized.

1 It shall be unlawful and a misdemeanor for any person to furnish any
2 record or disclose any information contained therein for any
3 unauthorized purpose.

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

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

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

14 a. the alleged victim of abuse, neglect, financial
15 exploitation, or financial neglect,

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

19 c. all other persons due notice in a guardianship
20 proceeding involving the victim pursuant to Section 3-
21 110 of Title 30 of the Oklahoma Statutes.

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

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