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1 waiver; authorizing criminal background checks under  
2 certain circumstances; specifying criminal background  
3 records shall be confidential; providing exceptions;  
4 requiring destruction of background checks after  
5 certain period; providing for codification; and  
6 providing an effective date.

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

8 SECTION 1. NEW LAW A new section of law to be codified  
9 in the Oklahoma Statutes as Section 1-865.1 of Title 63, unless  
10 there is created a duplication in numbering, reads as follows:

11 A. This act shall be known and may be cited as the "Sheltered  
12 Workshop Act".

13 B. The Sheltered Workshop Act allows individuals with  
14 developmental disabilities opportunities to participate in  
15 meaningful work or training activities. Each workshop will be  
16 licensed and provide a safe environment.

17 SECTION 2. NEW LAW A new section of law to be codified  
18 in the Oklahoma Statutes as Section 1-865.2 of Title 63, unless  
19 there is created a duplication in numbering, reads as follows:

20 As used in the Sheltered Workshop Act:

21 1. "Community services worker" means any person who:

22 a. contracts with the Oklahoma Health Care Authority to  
23 provide specialized foster care, habilitation training  
24 specialist services, or homemaker services to persons  
with developmental disabilities,

- 1           b.    is not a licensed health professional, and
- 2           c.    is employed by or under contract with a community
- 3                services provider to provide for compensation or as a
- 4                volunteer the following:
- 5                (1)   health-related services,
- 6                (2)   training, or
- 7                (3)   supportive assistance;

8           2.   "Contract" means the binding legal agreement to provide

9   sheltered workshop services, entered into between the provider and

10   the Developmental Disabilities Services Division of the Department

11   of Human Services or the Oklahoma Health Care Authority;

12           3.   "DDSD" means the Developmental Disabilities Services

13   Division of the Department of Human Services;

14           4.   "Department" means the Department of Human Services;

15           5.   "Developmental disability" means a severely chronic

16   disability of a person which:

- 17           a.    is attributable to a physical or mental impairment or
- 18                a combination of physical or mental impairments,
- 19           b.    is manifested before the person attains the age of
- 20                twenty-two (22) years,
- 21           c.    is likely to continue indefinitely,
- 22           d.    results in substantial functional limitations in three
- 23                or more of the following areas of major life activity:
- 24                (1)   self-care,

- (2) receptive and expressive language,
- (3) learning,
- (4) mobility,
- (5) self-direction,
- (6) capacity for independent living, or
- (7) economic self-sufficiency, and

e. reflects the need of the person for a combination and sequence of special interdisciplinary or generic care, treatment or other services which are of lifelong or extended duration and are individually planned and coordinated;

6. "Director" means the Director of Human Services;

7. "Licensee" means a person, corporation, partnership, limited liability company, or association operating a sheltered workshop which is licensed pursuant to the provisions of the Sheltered Workshop Act;

8. "Provider" means a person, corporation, partnership, limited liability company, association, or other entity that contracts with the Developmental Disabilities Services Division of the Department of Human Services or the Oklahoma Health Care Authority to operate a sheltered workshop for persons with developmental disabilities;

9. "Service recipient" means a person participating in the sheltered workshop; and

1        10. "Sheltered workshop" means a facility, or any portion  
2 thereof, operated by a nonprofit organization, corporation,  
3 partnership, limited liability company or association whose purpose  
4 is to provide meaningful work or training activities to individuals  
5 with developmental disabilities and holds a current certificate  
6 under Section 14c of the Fair Labor Standards Act by the Wage and  
7 Hour Division, U.S. Department of Labor.

8        SECTION 3.        NEW LAW        A new section of law to be codified  
9 in the Oklahoma Statutes as Section 1-865.3 of Title 63, unless  
10 there is created a duplication in numbering, reads as follows:

11        A. The Department of Human Services shall have the power and  
12 duty to:

13        1. Enforce any provision of the Sheltered Workshop Act;

14        2. Issue, renew, deny, modify, suspend, and revoke licenses for  
15 sheltered workshops pursuant to the provisions of the Sheltered  
16 Workshop Act; provided, however, providers of sheltered workshop  
17 services that have a contract with the Developmental Disabilities  
18 Services Division of the Department of Human Services or the  
19 Oklahoma Health Care Authority to provide sheltered workshop  
20 services as of November 1, 2011, shall be deemed to be licensed,  
21 subject to the continuing requirements of the Sheltered Workshop  
22 Act;

23        3. Establish and enforce standards and requirements for  
24 licensure and operation of sheltered workshops that are subject to

1 the provisions of the Sheltered Workshop Act and require the  
2 submission of, and to review, reports from any person establishing  
3 or operating a sheltered workshop;

4 4. Enter upon any public or private property for the purpose of  
5 inspecting and investigating conditions of the sheltered workshop  
6 for compliance with the provisions of the Sheltered Workshop Act, or  
7 the standards and requirements for licensure and operation of  
8 sheltered workshops developed by the Department pursuant to the  
9 provisions of the Sheltered Workshop Act;

10 5. Employ or designate personnel to conduct investigations and  
11 inspections, to make reports of the condition of sheltered  
12 workshops, and to take necessary action pursuant to the provisions  
13 of the Sheltered Workshop Act to protect and safeguard the health,  
14 safety, and welfare of service recipients;

15 6. Advise, consult, and cooperate with other agencies of this  
16 state, the federal government, other states and interstate agencies,  
17 and with affected groups and political subdivisions to further the  
18 purposes of the Sheltered Workshop Act;

19 7. Investigate, request or otherwise obtain the information  
20 necessary to determine the qualifications and background of an  
21 applicant for licensure or contract;

22 8. Provide the sheltered workshop thirty (30) days written  
23 notice that its license is to be suspended or revoked, and shall  
24 take action at the end of that time if the sheltered workshop

1 remains out of compliance. However, if the health and safety of  
2 service recipients is threatened, the suspension or revocation shall  
3 be effective immediately and the sheltered workshop shall be closed;

4 9. Notify holders of suspended or revoked licenses that they  
5 shall be entitled to a hearing before Department licensure officials  
6 if requested within ten (10) days of their notification. The  
7 hearing shall be held at least ten (10) days before final action is  
8 taken and conducted pursuant to the Administrative Procedures Act;  
9 and

10 10. Reinstate suspended licenses if deficiencies are corrected  
11 within a time frame established by the Department.

12 B. The Department of Human Services shall develop rules  
13 establishing minimum standards for sheltered workshops. These  
14 standards, at minimum, shall regulate:

- 15 1. Physical plant expectations to include physical facilities,  
16 ventilation, and accessibility;
- 17 2. Staffing requirements;
- 18 3. Staff training;
- 19 4. Staff qualifications; and
- 20 5. Service recipient records.

21 SECTION 4. NEW LAW A new section of law to be codified  
22 in the Oklahoma Statutes as Section 1-865.4 of Title 63, unless  
23 there is created a duplication in numbering, reads as follows:

1       A. A license shall expire twelve (12) months from the date of  
2       issuance, unless revoked, and may be renewed annually by the  
3       Department of Human Services pursuant to the provisions of the  
4       Sheltered Workshop Act. All licenses shall be on a form prescribed  
5       by the Director of Human Services, and shall include, but not be  
6       limited to, the kind of program the licensee is certified to  
7       operate, the date the license was issued, and the expiration date of  
8       the license. The provisions of the license shall require that the  
9       license shall:

10       1. Not be transferable or assignable except as authorized by  
11       the provisions of the Sheltered Workshop Act;

12       2. Be available on the licensed premises; and

13       3. Be issued only for the premises named in the application,  
14       and may be renewed for twelve-month periods upon application and  
15       inspection, pursuant to the provisions of the Sheltered Workshop  
16       Act.

17       B. An application shall be under oath and shall contain, but  
18       not be limited to, the following information:

19       1. The name and address of the applicant or licensee. If the  
20       applicant or licensee is a firm or partnership, the name and address  
21       of each member thereof shall be included in the application. If the  
22       applicant or licensee is a firm, partnership, limited liability  
23       company, or corporation, the name and address of the firm,  
24       partnership, limited liability company, or corporation and the name



1 and address of each member of the firm, major member of the limited  
2 liability company or manager, major partner of the partnership, or  
3 officer, major stockholder and registered agent of the corporation  
4 shall be included in the application;

5 2. The name and address of the applicant or licensee if the  
6 applicant or licensee is not the provider and is acting as agent for  
7 the provider of sheltered workshop services or licensee;

8 3. The name and location of the sheltered workshop for which a  
9 license is sought;

10 4. The name and administrator of the sheltered workshop;

11 5. The number for whom services are to be provided; and

12 6. A description of the program and the staffing pattern for  
13 providing supports. In the case of an application for an initial  
14 license, such description may be shown as the projected program and  
15 staffing pattern.

16 C. 1. An applicant or licensee shall be twenty-one (21) years  
17 of age or older and of reputable and responsible character. In  
18 addition, the applicant or licensee shall have appropriate business  
19 or professional experience.

20 2. No person who is ineligible for employment as a community  
21 services worker in accordance with Section 1025.2 of Title 56 of the  
22 Oklahoma Statutes shall be eligible to be licensed or to receive a  
23 contract to become a community services provider. If the applicant  
24 or licensee is a firm, partnership, limited liability company, or

1 corporation, the applicant shall not be eligible to be licensed or  
2 to receive a contract if any member of the firm, any major member of  
3 the limited liability company or manager, any major partner of the  
4 partnership, or any officer or major stockholder of the corporation  
5 is ineligible for employment as a community services worker in  
6 accordance with Section 1025.2 of Title 56 of the Oklahoma Statutes.

7 D. The application for a license or renewal of a license shall  
8 be accompanied by a statement of ownership which shall include the  
9 following:

10 1. The name, address, telephone number, occupation or business  
11 activity, business address, and business telephone number of the  
12 owner of the sheltered workshop and of every person who owns the  
13 building in which the sheltered workshop is located. If the owner  
14 is a partnership, limited liability company, or corporation, the  
15 name and address of each partner, major member of the limited  
16 liability company, and stockholder with an ownership interest of  
17 five percent (5%) or more shall be included in the statement; and

18 2. The name and address of any other sheltered workshop in  
19 which the owner has a full or partial financial interest or, if the  
20 applicant or licensee is a partnership, limited liability company,  
21 or corporation, any other sheltered workshop in which the  
22 partnership, limited liability company, or corporation has a full or  
23 partial financial interest. The statement shall indicate whether  
24 any other sheltered workshop wherein a full or partial financial

1 interest is held would, if located in this state, be required to be  
2 licensed.

3 E. The Director or designee shall issue and renew licenses for  
4 sheltered workshops which comply with the provisions of the  
5 Sheltered Workshop Act and the standards and rules pursuant thereto.

6 SECTION 5. NEW LAW A new section of law to be codified  
7 in the Oklahoma Statutes as Section 1-865.5 of Title 63, unless  
8 there is created a duplication in numbering, reads as follows:

9 A. The Department of Human Services may issue a conditional  
10 license to any sheltered workshop if the Department finds that a  
11 violation exists in such sheltered workshop. The issuance of a  
12 conditional license shall revoke any license held by the sheltered  
13 workshop issued pursuant to the Sheltered Workshop Act.

14 B. Prior to the issuance of a conditional license, the  
15 Department shall review and approve a written plan of correction.  
16 The Department shall specify the violations which prevent issuance  
17 of a regular license and shall establish a time schedule for  
18 correction of the deficiencies. Retention of the license shall be  
19 conditional on meeting the requirements of the plan of correction.  
20 In the alternative or in addition to a conditional license, the  
21 Director of the Department of Human Services may withhold vendor  
22 payments due to a sheltered workshop under its programs until such  
23 time as the corrections are made or a plan of correction for all  
24 deficiencies is approved by the Department.

1 C. Written notice of the decision to issue a conditional  
2 license shall be sent to the sheltered workshop together with the  
3 proposed plan of correction. The notice shall inform the sheltered  
4 workshop of its right to an informal conference prior to issuance of  
5 the conditional license and its right to a full hearing.

6 D. If the sheltered workshop desires to have an informal  
7 conference it shall, within four (4) working days of receipt of  
8 notice, send a written request for an informal conference to the  
9 Department. The Department shall, within four (4) working days from  
10 the receipt of the request, hold an informal conference. Following  
11 the conference, the Department may affirm or overrule its previous  
12 decision, or modify the terms of the conditional license and plan of  
13 correction. The conditional license may be issued after the  
14 informal conference or after the time for requesting an informal  
15 conference has expired, prior to any further hearing.

16 SECTION 6. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 1-865.6 of Title 63, unless  
18 there is created a duplication in numbering, reads as follows:

19 A. Except as provided in this section, a license to operate a  
20 sheltered workshop subject to the provisions of the Sheltered  
21 Workshop Act is not transferable. Operation of a sheltered workshop  
22 may only be transferred:  
23  
24

1        1. With the prior written approval of the Director of the  
2        Developmental Disabilities Services Division of the Department of  
3        Human Services or designee; and

4        2. From the provider or licensee named in the application to  
5        another provider who has a current license or is deemed licensed in  
6        accordance with the requirements of the Sheltered Workshop Act.

7        B. The transferor shall remain responsible for the operation of  
8        the sheltered workshop until the transfer is complete. The  
9        transferor shall remain liable for all penalties assessed which are  
10       imposed for violations occurring prior to transfer of operation.  
11       Any citation, problems identified by the Developmental Services  
12       Division prior to the transfer, or outstanding deficiencies  
13       remaining after the transfer are the responsibility of the  
14       transferee to correct.

15       SECTION 7.        NEW LAW        A new section of law to be codified  
16       in the Oklahoma Statutes as Section 1-865.7 of Title 63, unless  
17       there is created a duplication in numbering, reads as follows:

18       A. Every sheltered workshop shall be inspected at least  
19       annually by a duly appointed representative of the Department of  
20       Human Services pursuant to rules promulgated by the Sheltered  
21       Workshop Act.

22       B. The Department shall inspect, survey, and evaluate each  
23       sheltered workshop to determine compliance with applicable licensure  
24

1 and program requirements and standards no less than annually and at  
2 any time the Department deems necessary.

3 C. Any inspection, investigation, survey, or evaluation may be  
4 conducted without prior notice. Any licensee or applicant for a  
5 license shall be deemed to have given consent to any duly authorized  
6 employee or agent of the Department to enter and inspect the  
7 sheltered workshop in accordance with the provisions of the  
8 Sheltered Workshop Act. Refusal to permit such entry or inspection  
9 shall constitute grounds for the denial, nonrenewal, suspension or  
10 revocation of a license.

11 D. The Department shall maintain a log, updated at least  
12 monthly and available for public inspection, which shall at a  
13 minimum detail:

14 1. The name of the sheltered workshop and date of inspection,  
15 investigation, survey, or evaluation;

16 2. Any deficiencies, lack of compliance, or violation noted at  
17 the inspection, investigation, survey, or evaluation;

18 3. The date a notice of violation, license denial, nonrenewal,  
19 suspension, or revocation was issued or other enforcement action  
20 occurred;

21 4. Proposed dates for the resolution of deficiencies;

22 5. The date corrections were completed, as verified by an  
23 inspection; and  
24

1        6. If the inspection or investigation was made pursuant to the  
2 receipt of a complaint, the date such complaint was received and the  
3 date the sheltered workshop was notified of the results of the  
4 inspection or investigation.

5        SECTION 8.        NEW LAW        A new section of law to be codified  
6 in the Oklahoma Statutes as Section 1-865.8 of Title 63, unless  
7 there is created a duplication in numbering, reads as follows:

8        A. Providers or licensees are required to conduct a search of  
9 criminal history records and the Oklahoma Department of Human  
10 Services Community Services Worker Registry (Registry) prior to  
11 permanent employment of any community services worker. The provider  
12 or licensee shall not hire, contract with, or use as a volunteer, a  
13 person whose name is listed in the Registry or who has a criminal  
14 background if the Oklahoma State Bureau of Investigation search  
15 reveals that the applicant has been convicted, pled guilty, or pled  
16 nolo contendere to misdemeanor assault and battery or any felony.  
17 The provider or licensee shall immediately cancel any temporary  
18 employment arrangement with a person whose name is listed in the  
19 Registry or whose background check reveals disqualifying violations  
20 of law. If a provider or licensee requests a waiver, the community  
21 service worker shall not work directly with service recipients until  
22 the provider receives a written decision by the Department.

23        B. At the request of a provider or licensee, a criminal  
24 background check search may be conducted on any person employed by

1 the employer, including those persons excluded in subsection A of  
2 this section, at any time during the period of employment of such  
3 person. If the results of a criminal background check reveal the  
4 person has been convicted, pled guilty, or pled nolo contendere to  
5 misdemeanor assault and battery or any felony, the provider or  
6 licensee shall immediately terminate the person's employment or  
7 contract.

8 C. All criminal records received by the employer are  
9 confidential and are for the exclusive use of the Department and the  
10 employer which requested the information. Except upon court order,  
11 or with the written consent of the person being investigated, the  
12 records shall not be released or otherwise disclosed to any other  
13 person or agency. These records shall be destroyed after one (1)  
14 year from the end of employment of the person to whom such records  
15 relate.

16 SECTION 9. This act shall become effective November 1, 2011.

17 COMMITTEE REPORT BY: COMMITTEE ON HEALTH & HUMAN SERVICES, dated  
18 3-28-11 - DO PASS.  
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