

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 56th Legislature (2017)

4 HOUSE BILL 1555

 By: Faught of the House

5 and

6 Quinn of the Senate

7
8
9 AS INTRODUCED

10 An Act relating to state employees; amending 74 O.S.
11 2011, Section 840-2.10, as last amended by Section 1,
12 Chapter 14, O.S.L. 2015 (74 O.S. Supp. 2016, Section
13 840-2.10), which relates to the State Employee
14 Assistance Program; transferring administration of
15 Program to Department of Mental Health and Substance
16 Abuse Services; updating statutory language;
17 providing an effective date; and declaring an
18 emergency.

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

20 SECTION 1. AMENDATORY 74 O.S. 2011, Section 840-2.10, as
21 last amended by Section 1, Chapter 14, O.S.L. 2015 (74 O.S. Supp.
22 2016, Section 840-2.10), is amended to read as follows:

23 Section 840-2.10 A. There is hereby created a State Employee
24 Assistance Program within the ~~Office of Management and Enterprise~~
25 ~~Services~~ Department of Mental Health and Substance Abuse Services.
26 All functions, powers, duties, funds and obligations of the Office

1 of Management and Enterprise Services in administration of the State
2 Employee Assistance Program shall be transferred to the Department.

3 The program may provide assistance to state agencies in their
4 management of employees whose personal problems may have a negative
5 impact on job performance. The program may also provide for
6 assessment, referral, consultation, and problem resolution
7 assistance to state employees and their family members seeking
8 corrective help with medical or mental health problems, including
9 alcohol or drug abuse and emotional, marital, familial, financial or
10 other personal problems. Participation in the State Employee
11 Assistance Program shall be on a voluntary basis.

12 B. ~~The Office of Management and Enterprise Services~~ Department
13 may enter into contracts which are necessary and proper to carry out
14 the purposes and functions of the State Employee Assistance Program
15 and establish standards and criteria which shall be met by entities
16 to be eligible to contract with the ~~Office of Management and~~
17 ~~Enterprise Services~~ Department.

18 C. The ~~Director~~ Commissioner of the ~~Office of Management and~~
19 ~~Enterprise Services~~ Department is hereby directed to:

20 1. Promulgate rules necessary for the administration of the
21 State Employee Assistance Program and the maintenance and release of
22 participant records; and

23 2. Establish evaluation methods to assess the effectiveness of
24 the State Employee Assistance Program.

1 D. Nothing in this act is intended to nullify any agency's
2 existing employee assistance program or to prohibit any state agency
3 from establishing its own employee assistance program; provided,
4 however, such programs established by state agencies shall be
5 subject to compliance with rules promulgated by the ~~Director~~
6 Commissioner of the ~~Office of Management and Enterprise Services~~
7 Department to ensure equitable treatment of employees.

8 E. Records that relate to participation by an individual in the
9 State Employee Assistance Program or an employee assistance program
10 established by a state agency shall be maintained separate and apart
11 from regular personnel records and shall not become part of an
12 employee's personnel file. Such records relating to an individual's
13 participation in an employee assistance program shall be
14 confidential and neither the records nor the testimony of an
15 Employee Assistance Program professional shall be subject to
16 subpoena unless a participant poses a threat to deliberately harm
17 the participant or others. Such determination shall be made by an
18 Employee Assistance Program professional. A participant in an
19 employee assistance program shall have a right of access to his or
20 her own employee assistance program records.

21 F. No provision of this section or the rules promulgated
22 pursuant to this section shall be construed to conflict with an
23 appointing authority's responsibility and authority to maintain
24 discipline or to take disciplinary measures against employees for

1 misconduct or unacceptable performance. Further, participation or
2 nonparticipation in any state employee assistance program shall not
3 excuse an employee from discipline or otherwise affect the terms and
4 conditions of such employee's employment status or opportunities for
5 advancement with the state.

6 G. The Legislature and the judicial branch of state government
7 may utilize the services of the State Employee Assistance Program at
8 their discretion.

9 SECTION 2. This act shall become effective July 1, 2017.

10 SECTION 3. It being immediately necessary for the preservation
11 of the public peace, health or safety, an emergency is hereby
12 declared to exist, by reason whereof this act shall take effect and
13 be in full force from and after its passage and approval.

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15 COMMITTEE REPORT BY: COMMITTEE ON GOVERNMENT MODERNIZATION, dated
16 02/22/2017 - DO PASS, As Coauthored.