

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

SENATE BILL NO. 931

By: Rosino

AS INTRODUCED

An Act relating to soldiers and sailors; creating the Court-Appointed Special Veteran Advocate Act of 2019; providing short title; defining terms; authorizing the Oklahoma Department of Veterans Affairs to enter into certain contracts; authorizing a court to appoint a court-appointed special veteran advocate under certain circumstances; establishing eligibility criteria; establishing certain responsibilities; providing for access to certain information; permitting certain program to be available to each judicial district; stating that court-appointed special veteran advocates serve without compensation; providing immunity under certain circumstances; authorizing disclosure of Department of Human Services records relating to veterans under certain circumstances; establishing that certain records shall be kept confidential; providing exception; creating a revolving fund; requiring each income and corporate tax return form to include a donation option for the benefit of court appointed special veterans advocates; providing for codification; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 451 of Title 72, unless there is created a duplication in numbering, reads as follows:

1 Sections 1 through 5 of this act shall be known and may be cited
2 as the "Court-Appointed Special Veteran Advocate Act of 2019".

3 SECTION 2. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 452 of Title 72, unless there is
5 created a duplication in numbering, reads as follows:

6 A. As used in this section:

7 1. "Court-appointed special veteran advocate" or "CASVA" means
8 a responsible adult who has been trained and is supervised by a
9 court-appointed special veteran advocate program recognized by the
10 court, and who has volunteered to be available for appointment under
11 this section to serve as an officer of the court to represent the
12 best interests of any vulnerable veteran over whom the district
13 court exercises jurisdiction, until discharged by the court;

14 2. "Court-appointed special veteran advocate program" means an
15 organized program, administered by either an independent, not-for-
16 profit corporation, a dependent project of an independent, not-for-
17 profit corporation, or a unit of local government, which recruits,
18 screens, trains, assigns, supervises and supports volunteers to be
19 available for appointment by the court as court-appointed special
20 veteran advocates to represent the best interests of a vulnerable
21 veteran;

22 3. "Vulnerable veteran" means a veteran, eighteen (18) years of
23 age or older, who is a victim of abuse, neglect or exploitation, or
24 who is disabled; and
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1 4. "Best interests" means a determination with regard to a
2 vulnerable veteran that is made from the perspective of the
3 vulnerable veteran, considering, but without giving primary
4 importance to, the convenience of the vulnerable veteran's
5 relatives, caregivers or health care providers, and without regard
6 for the perceived quality of life of the vulnerable veteran or the
7 vulnerable veteran's perceived nearness to death.

8 B. The Oklahoma Department of Veterans Affairs is hereby
9 authorized to contract with court-appointed special veteran advocate
10 programs.

11 C. 1. In any court action related to the vulnerable veteran,
12 the court may appoint a CASVA for the vulnerable veteran at any
13 time.

14 2. The court may appoint a CASVA upon the request of the
15 vulnerable veteran, the attorney of the vulnerable veteran, the
16 Oklahoma Department of Veterans Affairs, the Office of Public
17 Guardian, the Adult Protective Services Program Office, Aging
18 Services Division and the Developmental Disabilities Services
19 Division within the Department of Human Services, the Office of the
20 State Long-Term Care Ombudsman, the state legal services developer
21 or any other party to the action.

22 3. A CASVA shall not be a district attorney, an employee of the
23 office of the district attorney, the vulnerable veteran's attorney,
24 an employee of the court, an employee of the Oklahoma Department of
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1 Veterans Affairs or an employee of any public agency having duties
2 or responsibilities related to the vulnerable veteran.

3 4. The CASVA shall be appointed to advocate objectively on
4 behalf of the vulnerable veteran and act as an officer of the court
5 to investigate all matters concerning the best interests of the
6 vulnerable veteran. In addition to other duties required by the
7 court and as specified by the court, a CASVA shall have the
8 following responsibilities:

- 9 a. review documents, reports, records and other
10 information relevant to the case, meet with and
11 observe the vulnerable veteran in appropriate settings
12 and interview relatives, health care providers, adult
13 protective services workers and any other persons with
14 knowledge relevant to the case,
- 15 b. advocate for the vulnerable veteran's best interests
16 by participating in the case, attending any hearings
17 in the matter and advocating for appropriate services
18 for the vulnerable veteran when necessary,
- 19 c. maintain the confidentiality of information related to
20 the case,
- 21 d. monitor the vulnerable veteran's best interests
22 throughout any judicial proceeding, and
- 23 e. present written reports on the vulnerable veteran's
24 best interests that include conclusions and

1 recommendations, and the facts upon which they are
2 based.

3 5. The CASVA shall be given access to the court files and
4 agency files and access to all documents, reports, records and other
5 information relevant to the case and to any records and reports of
6 examination of the vulnerable veteran's relatives, guardian or
7 custodian, made pursuant to the laws relating to adult abuse and
8 neglect, including reports generated by service providers.

9 D. 1. The CASVA program may be made available to each judicial
10 district.

11 2. A CASVA shall serve without compensation.

12 E. 1. Any person participating in a judicial proceeding as a
13 CASVA shall be presumed prima facie to be acting in good faith and
14 in so doing shall be immune from any civil liability that otherwise
15 might be incurred or imposed.

16 2. Any person serving in a management position of a CASVA
17 organization, including a member of the Board of Directors acting in
18 good faith, shall be immune from any civil liability or any
19 vicarious liability for the negligence of any court-appointed
20 special veteran advocate organization advocates, managers or
21 directors.

22 SECTION 3. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 453 of Title 72, unless there is
24 created a duplication in numbering, reads as follows:

1 A. Any Department of Human Services agency records pertaining
2 to a veteran may be inspected, and their contents shall be
3 disclosed, without a court order to the following persons upon
4 showing of proper credentials and pursuant to their lawful duties:

5 1. The court having the veteran currently before it in any
6 proceeding pursuant to this title, any district court or tribal
7 court to which such proceedings may be transferred, employees and
8 officers of the court in the performance of their duties, including
9 but not limited to court-appointed special veteran advocates; and

10 2. Employees of court-appointed special veteran advocate
11 (CASVA) programs, as defined in Section 1 of this act, in the course
12 of their official duties pertaining to recruiting, screening,
13 training, assigning cases, supervising and supporting volunteers in
14 their roles as advocates pursuant to Section 2 of this act;

15 SECTION 4. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 454 of Title 72, unless there is
17 created a duplication in numbering, reads as follows:

18 A. Except as otherwise specifically provided by state and
19 federal laws, the records pertaining to a veteran are confidential
20 and shall not be open to the general public or inspected or their
21 contents disclosed.

22 B. The limitation of subsection A of this section shall not
23 apply to statistical information and other abstract information
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1 obtained pursuant to rules promulgated by the Oklahoma Veterans
2 Commission.

3 SECTION 5. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 455 of Title 72, unless there is
5 created a duplication in numbering, reads as follows:

6 There is hereby created in the State Treasury a revolving fund
7 for the Oklahoma Department of Veterans Affairs to be designated the
8 "Income Tax Checkoff Revolving Fund for Court Appointed Special
9 Veteran Advocates". The fund shall be a continuing fund, not
10 subject to fiscal year limitations, and shall consist of all monies
11 apportioned to the fund pursuant to the provisions of Section 6 of
12 this act. All monies accruing to the credit of the fund are hereby
13 appropriated and may be budgeted and expended by the Oklahoma
14 Department of Veterans Affairs for the purpose of contracting with
15 Court Appointed Special Veteran Advocates Programs. Expenditures
16 from the fund shall be made upon warrants issued by the State
17 Treasurer against claims filed as prescribed by law with the
18 Director of the Office of Management and Enterprise Services for
19 approval and payment.

20 SECTION 6. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 2368.31 of Title 68, unless
22 there is created a duplication in numbering, reads as follows:

23 A. Each state individual income tax return form for tax years
24 which begin after December 31, 2019, and each state corporate tax
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1 return form for tax years beginning after December 31, 2019, shall
2 contain a provision to allow a donation from a tax refund for the
3 benefit of programs to recruit, train and supervise volunteers as
4 Court Appointed Special Veteran Advocates, as follows:

5 Support of programs for volunteers to act as Court Appointed
6 Special Veteran Advocates for mentally incapacitated veterans living
7 in Oklahoma. Check if you wish to donate from your tax refund: ()
8 \$2, () \$5, or () \$____.

9 B. Except as otherwise provided for in this section, all monies
10 generated pursuant to subsection A of this section shall be paid to
11 the State Treasurer by the Oklahoma Tax Commission and placed to the
12 credit of the Income Tax Checkoff Revolving Fund for Court Appointed
13 Special Veteran Advocates created in Section 5 of this act.

14 C. If a taxpayer makes a donation pursuant to subsection A of
15 this section in error, the taxpayer may file a claim for refund at
16 any time within three (3) years from the due date of the tax return.
17 Such claims shall be filed pursuant to the provisions of Section
18 2373 of Title 68 of the Oklahoma Statutes. Prior to the
19 apportionment set forth in this section, an amount equal to the
20 total amount of refunds made pursuant to this subsection during any
21 one (1) year shall be deducted from the total donations received
22 pursuant to this section during the following year and such amount
23 deducted shall be paid to the State Treasurer and placed to the
24 credit of the Income Tax Withholding Refund Account.

1 SECTION 7. It being immediately necessary for the preservation
2 of the public peace, health or safety, an emergency is hereby
3 declared to exist, by reason whereof this act shall take effect and
4 be in full force from and after its passage and approval.

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