

An Act

ENROLLED HOUSE
BILL NO. 2776

By: Steele and Jett of the
House

and

Justice and Johnson
(Constance) of the Senate

An Act relating to mental health; amending 43A O.S. 2001, Section 10-110, which relates to confidentiality of certain records and reports; providing for exception; defining terms; authorizing the release of certain information in vulnerable adult abuse or neglect cases; specifying information to be released; allowing for the release of certain information upon request after a certain period of time; requiring the release of certain information of previous cases or complaints; prohibiting the release of certain information; providing for codification; and providing an effective date.

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

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

Section 10-110. A. The reports, records, and working papers used or developed in an investigation of the circumstances of a vulnerable adult pursuant to the provisions of the Protective Services for Vulnerable Adults Act are confidential and may be disclosed only pursuant to rules promulgated by the Commission for Human Services, by order of the court or as otherwise provided by this section or Section 2 of this act.

B. Department of Human Services agency records pertaining to a vulnerable adult may be inspected and their contents disclosed

without a court order to the following persons upon showing of proper credentials and pursuant to their lawful duties:

1. A district attorney and the employees of an office of a district attorney in the course of their official duties pursuant to this title or the prosecution of crimes against vulnerable adults;

2. The attorney representing a vulnerable adult who is the subject of a proceeding pursuant to the provisions of the Protective Services for Vulnerable Adults Act;

3. Employees of a law enforcement agency of this or another state and employees of protective services for vulnerable adults of another state;

4. A physician who has before him or her a vulnerable adult whom the physician reasonably suspects may have been abused or neglected or any health care or mental health professional involved in the evaluation or treatment of the vulnerable adult;

5. A caretaker, legal guardian, custodian or other family members of the vulnerable adult; provided the Department may limit such disclosures to summaries or to information directly necessary for the purpose of such disclosure;

6. Any public or private agency or person authorized by the Department to diagnose, provide care and treatment to a vulnerable adult who is the subject of a report or record of vulnerable adult abuse or neglect;

7. Any public or private agency or person authorized by the Department to supervise or provide other services to a vulnerable adult who is the subject of a report or record of vulnerable adult abuse or neglect; provided the Department may limit such disclosure to summaries or to information directly necessary for the purpose of such disclosure; and

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

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

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

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

D. Records and their contents disclosed pursuant to this section shall remain confidential. The use of such information shall be limited to the purposes for which disclosure is authorized. It shall be unlawful and a misdemeanor for any person to furnish any record or disclose any information contained therein for any unauthorized purpose.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-110.1 of Title 43A, unless there is created a duplication in numbering, reads as follows:

A. For purposes of this section:

1. "Near death" means the vulnerable adult is in serious or critical condition, as certified by a physician, as a result of abuse or neglect; and

2. "Vulnerable adult" shall be defined as provided in Section 10-103 of Title 43A of the Oklahoma Statutes.

B. When a person responsible for the care of a vulnerable adult has been charged by information or indictment with committing a crime resulting in the death or near death of the vulnerable adult, there shall be a presumption that the best interest of the public is served by public disclosure of certain information concerning:

1. The circumstances of the investigation of the death or near death of the vulnerable adult; and

2. Any other investigations concerning that vulnerable adult, or other vulnerable adults living in the same facility, or involving an individual provider of services to vulnerable adults, within:

- a. three (3) years of the death or near death, and
- b. one (1) year after the death or near death.

C. 1. At any time subsequent to seven (7) days of the date the person providing care to the vulnerable adult has been criminally charged, the Department of Human Services Adult Protective Services Division, the district attorney, the district court clerk, and the judge having jurisdiction over the case, upon request, shall release certain information to the public as follows:

- a. a confirmation shall be provided by the Department as to whether a report has been made concerning the alleged victim or other vulnerable adults while living in the same household or facility and whether an investigation has begun,
- b. confirmation shall be provided by the Department as to whether previous reports have been made and the dates thereof, a summary of those previous reports, the dates and outcome of any investigations or actions taken by the Department in response to a previous report of abuse or neglect of vulnerable adults, and the specific recommendation made to the district attorney and any subsequent action taken by the district attorney,
- c. the dates of any judicial proceedings prior to the death or near death of the vulnerable adult,
- d. recommendations submitted by each participant in writing at the judicial proceedings including recommendation made at the hearing as they relate to appropriate placement of a vulnerable adult, and
- e. the rulings of the court.

2. Specific recommendations made and services rendered by the Department of Human Services Adult Protective Services Division described in any progress reports of a pending case submitted to the court may be disclosed by the Department.

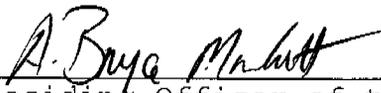
D. Any disclosure of information pursuant to this section shall not identify or provide an identifying description of any complainant or reporter of vulnerable adult abuse or neglect, and shall not identify the name of other vulnerable adults in the household or facility, the person responsible for the care of the vulnerable adult, or any other member of the facility or household, other than the person criminally charged.

SECTION 3. This act shall become effective November 1, 2010.

Passed the House of Representatives the 16th day of February, 2010.

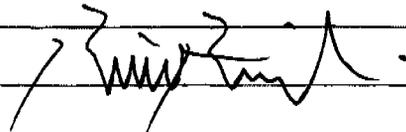

Presiding Officer of the House of Representatives

Passed the Senate the 8th day of April, 2010.

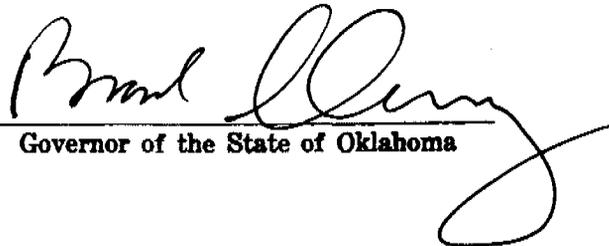

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Governor this 12th
day of April, 2010,
at 2:54 o'clock P M.

By: 

Approved by the Governor of the State of Oklahoma the 16th day of
April, 2010, at 5:04 o'clock P. M.


Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this _____
17th day of April, 2010,
at 9:45 o'clock A M.

By: 