

# An Act

ENROLLED SENATE  
BILL NO. 1287

By: Griffin of the Senate

and

Jordan of the House

An Act relating to vulnerable adult abuse; amending 43A O.S. 2011, Section 10-104, as amended by Section 3, Chapter 417, O.S.L. 2010, which relates to persons required to report abuse; modifying requirements for forwarding of certain findings; and providing an effective date.

SUBJECT: Vulnerable adult abuse

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

SECTION 1. AMENDATORY 43A O.S. 2011, Section 10-104, as amended by Section 3, Chapter 417, O.S.L. 2010, is amended to read as follows:

Section 10-104. A. Any person having reasonable cause to believe that a vulnerable adult is suffering from abuse, neglect, or exploitation shall make a report as soon as the person is aware of the situation to:

1. The Department of Human Services; or
2. The municipal police department or sheriff's office in the county in which the suspected abuse, neglect, or exploitation occurred.

B. Persons required to make reports pursuant to this section shall include, but not be limited to:

1. Physicians;
2. Operators of emergency response vehicles and other medical professionals;
3. Social workers and mental health professionals;
4. Law enforcement officials;
5. Staff of domestic violence programs;
6. Long-term care facility personnel, including staff of nursing facilities, intermediate care facilities for persons with mental retardation, assisted living facilities, and residential care facilities;
7. Other health care professionals;
8. Persons entering into transactions with a caretaker or other person who has assumed the role of financial management for a vulnerable adult;
9. Staff of residential care facilities, group homes, or employment settings for individuals with developmental disabilities;
10. Job coaches, community service workers, and personal care assistants; and
11. Municipal employees.

C. 1. If the report is not made in writing in the first instance, as soon as possible after it is initially made by telephone or otherwise, the report shall be reduced to writing by the Department of Human Services, in accordance with rules promulgated by the Commission for Human Services, or the local municipal police or sheriff's department whichever entity received the initial report. The report shall contain the following information:

- a. the name and address of the vulnerable adult,

- b. the name and address of the caretaker, guardian, or person having power of attorney over the vulnerable adult's resources if any,
- c. a description of the current location of the vulnerable adult,
- d. a description of the current condition of the vulnerable adult, and
- e. a description of the situation which may constitute abuse, neglect or exploitation of the vulnerable adult.

2. If federal law specifically prohibits the disclosure of any of the information required by this subsection, that information may be excluded from the report.

D. If the initial report is made to the local municipal police department or sheriff's office, such police department or sheriff's office shall notify, as soon as possible, the Department of Human Services of its investigation.

E. Any person who knowingly and willfully fails to promptly report any abuse, neglect, or exploitation as required by the provisions of subsection A of this section, upon conviction, shall be guilty of a misdemeanor punishable by imprisonment in the county jail for a term not exceeding one (1) year or by a fine of not more than One Thousand Dollars (\$1,000.00), or by both such fine and imprisonment.

F. 1. Any person participating in good faith and exercising due care in the making of a report pursuant to the provisions of this section shall have immunity from any civil or criminal liability that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from the report.

2. The same immunity from any civil or criminal liability shall also be extended to previous employers of a person employed to be responsible for the care of a vulnerable adult, who in good faith report to new employers or prospective employers of such caretaker

any misconduct of the caretaker including, but not limited to, abuse, neglect or exploitation of a vulnerable adult, whether confirmed or not.

G. Any person who willfully or recklessly makes a false report shall be civilly liable for any actual damages suffered by the person being reported and for any punitive damages set by the court or jury which may be allowed in the discretion of the court or jury.

H. 1. Every physician or other health care professional making a report concerning the abuse, neglect or exploitation of a vulnerable adult, as required by this section, or examining a vulnerable adult to determine the likelihood of abuse, neglect or exploitation, and every hospital in which a vulnerable adult is examined or treated for abuse, neglect or exploitation shall disclose necessary health information related to the case and provide, upon request by either the Department of Human Services or the local municipal police or sheriff's department receiving the initial report, copies of the results or the records of the examination on which the report was based, and any other clinical notes, x-rays or photographs and other health information which is related to the case if:

- a. the vulnerable adult agrees to the disclosure of the health information, or
- b. the individual is unable to agree to the disclosure of health information because of incapacity; and
  - (1) the requesting party represents that the health information for which disclosure is sought is not intended to be used against the vulnerable adult in a criminal prosecution but to provide protective services pursuant to the Protective Services for Vulnerable Adults Act,
  - (2) the disclosure of the information is necessary to conduct an investigation into the alleged abuse, neglect or exploitation of the vulnerable adult subject to the investigation, and

(3) immediate enforcement activity that depends upon the disclosure:

(a) is necessary to protect the health, safety and welfare of the vulnerable adult because of incapacity, or

(b) would be materially and adversely affected by waiting until the vulnerable adult is able to agree to the disclosure.

2. If federal law specifically prohibits the disclosure of any of the information required by this subsection, that information may be excluded from the disclosed health information.

I. After investigating the report, either the county office of the Department of Human Services or the municipal police department or sheriff's office, as appropriate, shall forward its findings to the office of the district attorney in the county in which the suspected abuse, neglect, or exploitation occurred. Unsubstantiated findings shall be labeled as such before transmission to the office of the district attorney. Findings of self-neglect shall not be forwarded to the office of the district attorney unless similar findings were reported within six (6) months prior.

J. Any state or county medical examiner or physician who has reasonable cause to suspect that the death of any vulnerable adult may be the result of abuse or neglect as defined by Section 10-103 of this title shall make a report to the district attorney or other law enforcement official of the county in which the death occurred. The report shall include the name of the person making the report, the name of the deceased person, the facts or other evidence supporting such suspicion, and any other health information that may be of assistance to the district attorney in conducting an investigation into the matter.

K. No employer shall terminate the employment, prevent or impair the practice or occupation of or impose any other sanction on any employee solely for the reason that the employee made or caused to be made a report or cooperated with an investigation pursuant to the Protective Services for Vulnerable Adults Act. A court, in addition to other damages and remedies, may assess reasonable

attorney fees against an employer who has been found to have violated the provisions of this subsection.

SECTION 2. This act shall become effective November 1, 2016.

Passed the Senate the 16th day of May, 2016.

\_\_\_\_\_  
Presiding Officer of the Senate

Passed the House of Representatives the 20th day of April, 2016.

\_\_\_\_\_  
Presiding Officer of the House  
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_

Approved by the Governor of the State of Oklahoma this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_