

1 **SENATE FLOOR VERSION**

2 April 13, 2023

3 ENGROSSED HOUSE
4 BILL NO. 1796

By: Osburn and Waldron of the
House

5 and

6 Seifried of the Senate

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8
9 An Act relating to state government; amending 74 O.S.
10 2021, Section 840-2.10, which relates to the State
11 Employee Assistance Program; authorizing the Oklahoma
12 Department of Mental Health and Substance Abuse
13 Services to enter into certain agreements; and
14 providing an effective date.

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

16 SECTION 1. AMENDATORY 74 O.S. 2021, Section 840-2.10, is
17 amended to read as follows:

18 Section 840-2.10 A. There is hereby created a State Employee
19 Assistance Program within the Department of Mental Health and
20 Substance Abuse Services. All functions, powers, duties, funds and
21 obligations of the Office of Management and Enterprise Services in
22 administration of the State Employee Assistance Program shall be
23 transferred to the Department. The program may provide assistance
24 to state agencies in their management of employees whose personal
problems may have a negative impact on job performance. The program

1 may also provide for assessment, referral, consultation, and problem
2 resolution assistance to state employees and their family members
3 seeking corrective help with medical or mental health problems,
4 including alcohol or drug abuse and emotional, marital, familial,
5 financial or other personal problems. Participation in the State
6 Employee Assistance Program shall be on a voluntary basis.

7 B. The Department may enter into contracts which are necessary
8 and proper to carry out the purposes and functions of the State
9 Employee Assistance Program and establish standards and criteria
10 which shall be met by entities to be eligible to contract with the
11 Department.

12 C. The Commissioner of the Department is hereby directed to:

13 1. Promulgate rules necessary for the administration of the
14 State Employee Assistance Program and the maintenance and release of
15 participant records; and

16 2. Establish evaluation methods to assess the effectiveness of
17 the State Employee Assistance Program.

18 D. Nothing in this act is intended to nullify any agency's
19 existing employee assistance program or to prohibit any state agency
20 from establishing its own employee assistance program; provided,
21 however, such programs established by state agencies shall be
22 subject to compliance with rules promulgated by the Commissioner of
23 the Department to ensure equitable treatment of employees.

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

14 F. No provision of this section or the rules promulgated
15 pursuant to this section shall be construed to conflict with an
16 appointing authority's responsibility and authority to maintain
17 discipline or to take disciplinary measures against employees for
18 misconduct or unacceptable performance. Further, participation or
19 nonparticipation in any state employee assistance program shall not
20 excuse an employee from discipline or otherwise affect the terms and
21 conditions of such employee's employment status or opportunities for
22 advancement with the state.

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1 G. The Legislature and the judicial branch of state government
2 may utilize the services of the State Employee Assistance Program at
3 their discretion.

4 H. The Oklahoma Department of Mental Health and Substance Abuse
5 Services is authorized to enter into agreements to serve as a vendor
6 with public sector employers wishing to offer employment assistance
7 programs or services to its employees.

8 SECTION 2. This act shall become effective November 1, 2023.

9 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT
10 April 13, 2023 - DO PASS

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