

1 ENGROSSED SENATE
2 BILL NO. 1127

By: Crain of the Senate

3 and

4 Munson of the House

5
6 An Act relating to vulnerable adults; amending 43A
7 O.S. 2011, Section 10-103, which relates to
8 definitions; modifying inclusions; and providing an
9 effective date.

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

11 SECTION 1. AMENDATORY 43A O.S. 2011, Section 10-103, is
12 amended to read as follows:

13 Section 10-103. A. When used in the Protective Services for
14 Vulnerable Adults Act:

15 1. "Protective services" means services which are necessary to
16 aid a vulnerable adult in meeting the essential requirements for
17 mental or physical health and safety that the vulnerable adult is
18 unable to provide or obtain without assistance. The term
19 "protective services" includes but is not limited to services
20 provided to or obtained for such person in order to prevent or
21 remedy the abuse, neglect, or exploitation of such person;

22 2. "Services which are necessary to aid an individual to meet
23 essential requirements for mental or physical health and safety"
24 include, but shall not be limited to:

- a. the identification of vulnerable adults in need of the services,
- b. the provision of medical care for physical and mental health needs,
- c. the provision of social services assistance in personal hygiene, food, clothing, and adequately heated and ventilated shelter,
- d. protection from health and safety hazards,
- e. protection from physical mistreatment,
- f. guardianship referral,
- g. outreach programs, and
- h. the transportation necessary to secure any of such services.

The term shall not include taking the person into physical custody without the consent of the person except as provided for in Sections 10-107 and 10-108 of this title, and the evaluation, monitoring, and provision of protective placements;

3. "Meet essential requirements for mental or physical health and safety" means those actions necessary to provide the health care, food, shelter, clothing, personal hygiene and other care without which physical injury or illness to the vulnerable adult is likely to occur;

4. "Incapacitated person" means:

- a. any person eighteen (18) years of age or older:

1 (1) who is impaired by reason of mental or physical
2 illness or disability, dementia or related
3 disease, mental retardation, developmental
4 disability or other cause, and

5 (2) whose ability to receive and evaluate information
6 effectively or to make and to communicate
7 responsible decisions is impaired to such an
8 extent that such person lacks the capacity to
9 manage his or her financial resources or to meet
10 essential requirements for his or her mental or
11 physical health or safety without assistance from
12 others, or

13 b. a person for whom a guardian, limited guardian, or
14 conservator has been appointed pursuant to the
15 Oklahoma Guardianship and Conservatorship Act;

16 5. "Vulnerable adult" means an individual who is an
17 incapacitated person or who, because of physical or mental
18 disability, including persons with Alzheimer's disease or other
19 dementias, incapacity, or other disability, is substantially
20 impaired in the ability to provide adequately for the care or
21 custody of himself or herself, or is unable to manage his or her
22 property and financial affairs effectively, or to meet essential
23 requirements for mental or physical health or safety, or to protect
24

1 himself or herself from abuse, verbal abuse, neglect, or
2 exploitation without assistance from others;

- 3 6. "Caretaker" means a person who has:
- 4 a. the responsibility for the care of a vulnerable adult
5 or the financial management of the resources of a
6 vulnerable adult as a result of a family relationship,
 - 7 b. assumed the responsibility for the care of a
8 vulnerable adult voluntarily, by contract, or as a
9 result of the ties of friendship, or
 - 10 c. been appointed a guardian, limited guardian, or
11 conservator pursuant to the Oklahoma Guardianship and
12 Conservatorship Act;

13 7. "Department" means the Department of Human Services;

- 14 8. "Abuse" means causing or permitting:
- 15 a. the infliction of physical pain, injury, sexual abuse,
16 sexual exploitation, unreasonable restraint or
17 confinement, or mental anguish, or
 - 18 b. the deprivation of nutrition, clothing, shelter,
19 health care, or other care or services without which
20 serious physical or mental injury is likely to occur
21 to a vulnerable adult by a caretaker or other person
22 providing services to a vulnerable adult;

23 9. "Exploitation" or "exploit" means an unjust or improper use
24 of the resources of a vulnerable adult for the profit or advantage,

1 pecuniary or otherwise, of a person other than the vulnerable adult
2 through the use of undue influence, coercion, harassment, duress,
3 deception, false representation or false pretense;

4 10. "Financial neglect" means repeated instances by a
5 caretaker, or other person, who has assumed the role of financial
6 management, of failure to use the resources available to restore or
7 maintain the health and physical well-being of a vulnerable adult,
8 including, but not limited to:

- 9 a. squandering or negligently mismanaging the money,
10 property, or accounts of a vulnerable adult,
- 11 b. refusing to pay for necessities or utilities in a
12 timely manner, or
- 13 c. providing substandard care to a vulnerable adult
14 despite the availability of adequate financial
15 resources;

16 11. "Neglect" means:

- 17 a. the failure to provide protection for a vulnerable
18 adult who is unable to protect his or her own
19 interest,
- 20 b. the failure to provide a vulnerable adult with
21 adequate shelter, nutrition, health care, or clothing,
22 or
- 23 c. negligent acts or omissions that result in harm or the
24 unreasonable risk of harm to a vulnerable adult

1 through the action, inaction, or lack of supervision
2 by a caretaker providing direct services;

3 12. "Sexual abuse" means:

- 4 a. oral, anal, or vaginal penetration of a vulnerable
5 adult by or through the union with the sexual organ of
6 a caretaker or other person providing services to the
7 vulnerable adult, or the anal or vaginal penetration
8 of a vulnerable adult by a caretaker or other person
9 providing services to the vulnerable adult with any
10 other object, or
11 b. for the purpose of sexual gratification, the touching,
12 feeling or observation of the body or private parts of
13 a vulnerable adult by a caretaker or other person
14 providing services to the vulnerable adult, or
15 c. indecent exposure by a caretaker or other person
16 providing services to the vulnerable adult;

17 13. "Indecent exposure" means forcing or requiring a vulnerable
18 adult to:

- 19 a. look upon the body or private parts of another person
20 or upon sexual acts performed in the presence of the
21 vulnerable adult, or
22 b. touch or feel the body or private parts of another;

23 14. "Self-neglect" means the action or inaction of a vulnerable
24 adult which causes that person to fail to meet the essential

1 requirements for physical or mental health and safety due to the
2 vulnerable adult's lack of awareness, incompetence or incapacity;

3 15. "Sexual exploitation" includes, but is not limited to, a
4 caretaker's causing, allowing, permitting or encouraging a
5 vulnerable adult to engage in prostitution or in the lewd, obscene,
6 or pornographic photographing, filming or depiction of the
7 vulnerable adult as those acts are defined by state law; and

8 16. "Verbal abuse" means the use of words, sounds, or other
9 communication including, but not limited to, gestures, actions or
10 behaviors, by a caretaker or other person providing services to a
11 vulnerable adult that are likely to cause a reasonable person to
12 experience humiliation, intimidation, fear, shame or degradation.

13 B. Nothing in this section shall be construed to mean a
14 vulnerable adult is abused or neglected for the sole reason the
15 vulnerable adult, in good faith, selects and depends upon spiritual
16 means alone through prayer, in accordance with the practices of a
17 recognized religious method of healing, for the treatment or cure of
18 disease or remedial care, or a caretaker or other person
19 responsible, in good faith, is furnishing such vulnerable adult
20 spiritual means alone through prayer, in accordance with the tenets
21 and practices of a recognized church or religious denomination, for
22 the treatment or cure of disease or remedial care in accordance with
23 the practices of or express consent of the vulnerable adult.

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

1 Passed the Senate the 1st day of March, 2016.

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4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2016.

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8 _____
9 Presiding Officer of the House
of Representatives