

Oklahoma Act Establishing "An Office of Elder Rights & Legal Assistance Services Development"

Signed by Governor Keating on April 16, 2001

ENROLLED SENATE

BILL NO. 789 By: Henry of the Senate and Nations of the House

An Act relating to poor persons; requiring the Aging Services Division of the Department of Human Services to establish specified program; requiring specified coordination and assistance by the Aging Services Division; requiring establishment of an Office of Elder Rights and Legal Assistance Services Development; specifying parameters of Office; providing for designation of person to administer program; stating criteria to determine sufficiency of staffing; requiring development of statewide standard; requiring provision of specified technical assistance; requiring consultation to ensure coordination of activities with specified services provided under state and federal programs; requiring specified education and training; requiring promotion and provision of education and training and stating contents thereof; requiring promotion of the development of specified legal aid and rights of older individuals; requiring the provision of periodic assessments and stating parameters thereof; requiring working agreements with specified entities; defining term; providing for codification; and providing an effective date.

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 3100 of Title 56, unless there is created a duplication in numbering, reads as follows:

A. 1. The Aging Services Division of the Department of Human Services shall, in accordance with the provisions of this section and in consultation with area agencies on aging, establish a program to provide leadership for improving the quality and quantity of legal and advocacy assistance as a means of ensuring a comprehensive elder rights system for Oklahoma's vulnerable elderly.

2. In carrying out the program established in paragraph 1 of this subsection, the Aging Services Division shall coordinate and provide assistance to area agencies on aging and other entities in Oklahoma that assist older individuals in:

- a. understanding the rights of the older individual,
- b. exercising choice,
- c. benefiting from services and opportunities authorized by law,

d. maintaining the rights of the older individual and, in particular, of the older individual with reduced capacity, and

e. resolving disputes.

B. In carrying out the provisions of this section, the Aging Services Division shall:

1. Establish an Office of Elder Rights and Legal Assistance Services Development as the focal point for leadership on elder rights policy review, analysis, and advocacy at the state level, including, but not limited to, such elder rights issues as guardianship, age discrimination, pension and health benefits, insurance, consumer protection, surrogate decision-making, protective services, public benefits, and dispute resolution;

2. Designate a person to administer the program, who shall be known as the State Legal Services Developer and who shall serve on a full-time basis, and other personnel, sufficient to ensure:

a. leadership in securing and maintaining legal rights for the older individual,

b. capacity for coordinating the provision of legal assistance,

c. capacity to provide technical assistance, training and other supportive functions to area agencies on aging, legal assistance providers, ombudsmen, and other persons as appropriate,

d. capacity to promote financial management services for older individuals at risk of guardianship,

e. capacity to analyze, comment on, monitor, develop, and promote federal, state, and local laws, rules and regulations, and other governmental policies and actions that pertain to the issues listed in paragraph 1 of this subsection, and

f. capacity to provide such information as necessary to public and private agencies, legislators, and other persons regarding the issues listed in paragraph 1 of this subsection;

3. Develop, in conjunction with area agencies on aging and legal assistance providers, statewide standards for the delivery of legal assistance to older individuals;

4. Provide technical assistance to area agencies on aging and legal assistance providers to enhance and monitor the quality and quantity of legal assistance to older individuals, including technical assistance in developing plans for targeting services to reach the older individual with greatest economic need and the older

individual with greatest social need, with particular attention to low-income minority individuals;

5. Provide consultation to area aging agencies to ensure coordination of their activities with:

- a. the legal assistance initiatives provided under the Older Americans Act,
- b. services provided by the Legal Services Corporation, and
- c. services provided under other state or federal programs, administered at the state and local level, that address the legal assistance needs of older individuals;

6. Provide for the education and training of professionals, volunteers, and older individuals concerning elder rights, the requirements and benefits of specific laws, and methods for enhancing the coordination of services;

7. Promote and provide, as appropriate, education and training for individuals who are or who might become guardians or representative payees of older individuals, including information on:

- a. the powers and duties of guardians or representative payees, and?
- b. alternatives to guardianship;

8. Promote the development of, and provide technical assistance concerning:

- a. pro bono legal assistance programs,
- b. state and local bar committees on aging,
- c. legal hot lines,
- d. alternative dispute resolution,
- e. programs and curricula, and
- f. other issues related to the rights and benefits of older individuals; in law schools and other institutions of higher education, and promote other methods to expand access by older individuals to legal assistance and advocacy and vulnerable elder rights protection activities;

9. Provide for periodic assessment of the status of elder rights in Oklahoma, including analysis of:

- a.

- (1) the unmet need for assistance in resolving legal problems and benefits-related problems,
  - (2) methods for expanding advocacy services,
  - (3) the status of substitute decision-making systems and services, including, but not limited to, systems and services regarding guardianship, representative payeeship, and advance directives,
  - (4) access to courts and the justice system, and
  - (5) the implementation of civil rights and age discrimination laws in Oklahoma, and
- b. problems and unmet needs identified in programs established under the Older Americans Act; and

10. For the purpose of identifying vulnerable elder rights protection activities provided by the entities under this act and coordinating such activities with programs established under the Older Americans Act, develop working agreements with:

- a. state entities, including the state consumer protection agency, the court system, the Attorney General, the state agency responsible for equal employment opportunity initiatives, and other state agencies, and
- b. federal entities, including the Social Security Administration, the Health Care Financing Administration, the Department of Veterans' Affairs, and other federal agencies.

C. As used in this section, the term "representative payee" means the person who enters into a contractual relationship with the United States Social Security Administration to receive a social security recipient's check and to disburse funds to meet the needs of the recipient.

SECTION 2. This act shall become effective November 1, 2001.

Passed the Senate the 13th day of March, 2001.

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Presiding Officer of the Senate

Passed the House of Representatives the 9th day of April, 2001.

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Presiding Officer of the House of Representatives