

1 ENGROSSED HOUSE
2 BILL NO. 1796

By: Osburn and Waldron of the
House

3 and

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

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

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

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

1 seeking corrective help with medical or mental health problems,
2 including alcohol or drug abuse and emotional, marital, familial,
3 financial or other personal problems. Participation in the State
4 Employee Assistance Program shall be on a voluntary basis.

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

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

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

14 2. Establish evaluation methods to assess the effectiveness of
15 the State Employee Assistance Program.

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

22 E. Records that relate to participation by an individual in the
23 State Employee Assistance Program or an employee assistance program
24 established by a state agency shall be maintained separate and apart

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

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

20 G. The Legislature and the judicial branch of state government
21 may utilize the services of the State Employee Assistance Program at
22 their discretion.

23 H. The Oklahoma Department of Mental Health and Substance Abuse
24 Services is authorized to enter into agreements to serve as a vendor

1 with public sector employers wishing to offer employment assistance
2 programs or services to its employees.

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

4 Passed the House of Representatives the 7th day of March, 2023.

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Presiding Officer of the House
of Representatives

9 Passed the Senate the ___ day of _____, 2023.

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Presiding Officer of the Senate