

An Act

ENROLLED HOUSE
BILL NO. 1796

By: Osburn and Waldron of the
House

and

Seifried of the Senate

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

SUBJECT: State government

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

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

Section 840-2.10 A. There is hereby created a State Employee Assistance Program within the Department of Mental Health and Substance Abuse Services. All functions, powers, duties, funds and obligations of the Office of Management and Enterprise Services in administration of the State Employee Assistance Program shall be transferred to the Department. The program may provide assistance to state agencies in their management of employees whose personal problems may have a negative impact on job performance. The program may also provide for assessment, referral, consultation, and problem resolution assistance to state employees and their family members seeking corrective help with medical or mental health problems, including alcohol or drug abuse and emotional, marital, familial, financial or other personal problems. Participation in the State Employee Assistance Program shall be on a voluntary basis.

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

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

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

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

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

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

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

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

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

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

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

Presiding Officer of the House
of Representatives

Passed the Senate the 24th day of April, 2023.

Presiding Officer of the Senate

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: _____