

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

HOUSE BILL NO. 1685

By: Larason

AS INTRODUCED

An Act relating to children; amending 1125.1 and 1125.2, which relates to confidential records; providing for inspection, release, disclosure, correction or expungement of certain records; requiring notice to certain persons; exempting certain persons from certain production requirements; adding to list of persons and entities eligible to obtain certain records without court order; specifying release and disclosure of certain records of Department of Human Services to certain persons; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 10 O.S. 1991, Section 1125.1, is amended to read as follows:

Section 1125.1 A. Except as provided by this section and except as otherwise specifically provided by state and federal laws, the following records are confidential and shall not be open to the general public or inspected or their contents disclosed:

1. Juvenile court records;
2. Agency records;

3. District attorney's records;
4. Law enforcement records;
5. Nondirectory education records;
6. Social records.

B. Except as authorized by Sections ~~9~~ 620.6 and 1125 through ~~14~~ 1125.4 of this ~~act~~ title and except as otherwise specifically provided by state and federal laws pertaining to the confidentiality of records and information and the inspection, release, disclosure, correction or expungement of such information, including but not limited to state and federal laws pertaining to education records, medical records, drug or alcohol treatment records, law enforcement, or social service records, the records listed in subsection A of this section shall be confidential and shall be inspected, released, disclosed, corrected or expunged only pursuant to an order of the court.

C. An order of the court authorizing the inspection, release, disclosure, correction or expungement of confidential records shall be entered by the court only after a review of the records by the court and a determination by the court, with due regard for the confidentiality of the records and the privacy of persons identified in the records, that a compelling reason exists and such inspection, release or disclosure is necessary for the protection of a legitimate public or private interest.

1. Any order authorizing the disclosure, release or inspection of said records pursuant to this subsection may be conditioned on such terms and restrictions as the court deems necessary and appropriate.

2. Upon the filing of a petition for an order of the court pursuant to this section, the court shall set a date for a hearing and shall provide for reasonable notice to ~~all interested parties~~ the agency holding the records and the person who is the subject of the record if said person is eighteen (18) years of age or older or

to the parents of a child less than age eighteen (18) who is the subject of the record, to the attorneys, if any, of such person, child or parents and any other interested party as ordered by the court. The hearing may be closed at the court's discretion.

3. No entity holding confidential records listed in subsection A of this section shall be required to produce records or information or be required to appear pursuant to a subpoena or subpoena ducas tecum except upon the filing of a petition as required by this subsection.

D. Any agency or person may seek an order from the juvenile court prohibiting the release of information subject to disclosure without an order of the court pursuant to Sections ~~9~~ 620.6 and 1125 through ~~14~~ 1125.4 of this ~~act~~ title. The court may, for good cause shown, prohibit the release of such information or authorize release of the information upon such conditions as the court deems necessary and appropriate.

E. In accordance with the provisions of the Serious and Habitual Juvenile Offender Act and Section ~~14~~ 620.6 of this ~~act~~ title:

1. Information included in the records listed in subsection A of this section may be entered in and maintained in the Juvenile Justice Information System and other automated information systems related to services to children and youth; and

2. Said information systems may be accessed by participating agencies as defined by subsection B of Section ~~9~~ 1125 of this ~~act~~ title.

F. Nothing in Sections ~~9~~ 620.6 and 1125 through ~~14~~ 1125.4 of this ~~act~~ title shall be construed as:

1. Authorizing the inspection of records or the disclosure of information contained in records relating to the provision of benefits or services funded, in whole or in part, with federal

funds, except in accord with federal statutes and regulations governing the receipt or use of such funds;

2. Authorizing the disclosure of information required to be kept confidential by Sections 55.1, 57, 60.17 or 60.29 of this title;

3. Abrogating any privilege, including the attorney-client privilege, or affecting any limitation on such privilege found in any other statutes;

4. Limiting or otherwise affecting access of parties to a juvenile proceeding to records filed with or submitted to the court;

5. Limiting or otherwise affecting access of agencies to information subject to disclosure, review, or inspection by contract or as a condition for the receipt of public funds or participation in any program administered by the agency;

6. Prohibiting the Department of Human Services from summarizing the outcome of an investigation to the person who reported a known or suspected instance of child abuse or neglect.

SECTION 2. AMENDATORY 10 O.S. 1991, Section 1125.2, is amended to read as follows:

Section 1125.2 A. Juvenile court records may be inspected, and their contents shall be disclosed, without a court order to the following:

1. The court having the child currently before it in any proceeding pursuant to Title 10 of the Oklahoma Statutes, any district court or tribal court to which such proceedings may be transferred, employees and officers of the court in the performance of their duties, including but not limited to guardians ad litem appointed by the court, court-appointed special advocates, and members of review boards established pursuant to Sections ~~1050.2~~ 1115.2, 1116.2 and 1116.6 of this title;

2. A district attorney and the employees of an office of a district attorney in the course of their official duties pursuant to

Title 10 of the Oklahoma Statutes or the prosecution of crimes against children;

3. The attorney representing a child who is the subject of a proceeding pursuant to the provisions of Title 10 of the Oklahoma Statutes or representing a child pursuant to subsection B of Section 846 of Title 21 of the Oklahoma Statutes. Said attorney may also access other records listed in subsection A of Section ~~40~~ 1125.1 of this ~~act~~ title for use in the legal representation of the child;

4. Employees of juvenile bureaus established by Section 1201 of Title 10 of the Oklahoma Statutes in the course of their official duties pursuant to Title 10 of the Oklahoma Statutes, and employees of the Department of Human Services in the course of their official duties pursuant to Title 10 and Title 56 of the Oklahoma Statutes;

5. Employees of a law enforcement agency in the course of their official duties pertaining to: ~~a.~~ investigations of a report of known or suspected child abuse or neglect or crimes against children or for the purpose of determining whether to place a child in protective custody, ~~or b.;~~

6. Employees of a law enforcement agency in the course of their official duties pertaining to the investigation of a crime committed or alleged to have been committed by a person under eighteen (18) years of age. Records or information disclosed pursuant to this ~~subparagraph~~ paragraph may consist of summaries or may be limited to the information or records necessary for the purpose of the investigation;

~~6.~~ 7. The Oklahoma Commission on Children and Youth as provided by Sections 601.2 and 601.6 of this title;

~~7.~~ 8. The Department of Human Services or other public or private agency or individual having court-ordered custody or custody pursuant to Department of Human Services placement of the child who is the subject of the record; and

~~8.~~ 9. The child who is the subject of the record and the parents, legal guardian, legal custodian or foster parent of said child.

B. In accordance with the rules adopted for such purpose pursuant to the Serious and Habitual Juvenile Offender Act and Section ~~14~~ 620.6 of this ~~act~~ title, the records listed in subsection A of Section ~~10~~ 1125.1 of this ~~act~~ title may be inspected and their contents disclosed without a court order to the following:

1. Participating agencies as defined by Section ~~9~~ 1125 of this ~~act~~ title;

2. Multidisciplinary teams designated by the Department of Human Services, court-appointed special advocates and members of review boards appointed pursuant to Sections 1050.2, 1116.2 and 1116.6 of this title;

3. The following, provided that the inspection of records and disclosure authorized by this paragraph may be limited to summaries or to information directly necessary for the purpose of such inspection or disclosure:

- a. pursuant to the provisions of Title 10 of the Oklahoma Statutes, a person, agency, hospital or clinic authorized or directed by the court or the Department of Human Services to care for, treat, examine, evaluate or supervise a child or to treat, examine, or evaluate the parent, legal guardian or other adult person living in the home of the child,
- b. a legally recognized school that is not a participating agency in which the child who is the subject of the record is currently enrolled, and
- c. individuals or agencies engaged in legitimate research for educational, scientific or public purposes or for the purpose of an audit authorized by law. No information identifying the subjects of the records

shall be made available or disclosed unless it is essential to the research or audit purpose; and

4. The chairman of any standing or special committee of the Legislature where a subpoena, authorized by law, has been issued by the committee requesting the records.

C. Records and their contents disclosed without an order of the court as provided by this section shall remain confidential. The use of such information shall be limited to the purposes for which disclosure is authorized. It shall be unlawful and a misdemeanor for any person to furnish any record or disclose any information contained therein for commercial, political or any other unauthorized purpose.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1125.2A of Title 10, unless there is created a duplication in numbering, reads as follows:

Department of Human Services agency records pertaining to a child may be inspected and their contents disclosed without a court order to the following:

1. The court having the child currently before it in any proceeding pursuant to Title 10 of the Oklahoma Statutes, any district court or tribal court to which such proceedings may be transferred, employees and officers of the court in the performance of their duties, including but not limited to guardians ad litem appointed by the court, court-appointed special advocates, and members of review boards established pursuant to Sections 1150.2, 1116.2 and 1116.6 of this title;

2. A district attorney and the employees of an office of a district attorney in the course of their official duties pursuant to Title 10 of the Oklahoma Statutes or the prosecution of crimes against children;

3. The attorney representing a child who is the subject of a proceeding pursuant to the provisions of Title 10 of the Oklahoma

Statutes or representing a child pursuant to subsection B of Section 846 of Title 21 of the Oklahoma Statutes. Said attorney may also access other records listed in subsection A of Section 1125.1 of this title for use in the legal representation of the child;

4. Employees of juvenile bureaus established by Section 1201 of Title 10 of the Oklahoma Statutes in the course of their official duties pursuant to Title 10 of the Oklahoma Statutes;

5. Employees of a law enforcement agency of this or another state and employees of a child protective service of another state or recognized tribe in the course of their official duties pertaining to investigations of a report of known or suspected child abuse or neglect or crimes against children or for the purpose of determining whether to place a child in protective custody;

6. Employees of a law enforcement agency in the course of their official duties pertaining to the investigation of a crime committed or alleged to have been committed by a person under eighteen (18) years of age. Records or information disclosed pursuant to this subparagraph may consist of summaries or may be limited to the information or records necessary for the purpose of the investigation; provided, records pertaining to any alleged or adjudicated abuse or neglect of the person shall not be inspected or disclosed;

7. The Oklahoma Commission on Children and Youth as provided by Sections 601.2 and 601.6 of this title;

8. A public or private agency or individual having court-ordered custody or custody pursuant to Department of Human Services placement of the child who is the subject of the record and any person, agency, hospital or clinic authorized by to care for, treat, examine, evaluate, supervise or provide other services to the child who is the subject of the record.

SECTION 4. This act shall become effective September 1, 1993.

44-1-5278

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