

ENGROSSED HOUSE AMENDMENT
TO
ENGROSSED SENATE BILL NO. 1207

By: Cain of the Senate

and

Seikel of the House

An Act relating to children; amending 10 O.S. 1991,
Section 1115.2, as amended by Section 31, Chapter
352, O.S.L. 1995, and as renumbered by Section 199,
Chapter 352, O.S.L. 1995 and Section 9, Chapter
353, O.S.L. 1995 (10 O.S. Supp. 1995, Sections
7003-5.4 and 7109), which relate to information
related to out-of-home placements and the
disclosure of child abuse and neglect information;
* * * and providing an effective date.

AMENDMENT NO. 1. Strike the title, enacting clause and entire bill
and insert

"(children - amending 10 O.S., Sections 7003-5.4, 7109 and
7307-1.2 - out-of-home placements - juvenile records -
effective date)

SECTION 1. AMENDATORY 10 O.S. 1991, Section 1115.2, as
amended by Section 31, Chapter 352, O.S.L. 1995, and as renumbered
by Section 199, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995,
Section 7003-5.4), is amended to read as follows:

Section 7003-5.4 A. The court shall ensure that the following information accompanies any deprived child placed outside the child's home:

1. Demographic information;
2. Type of custody and previous placement;
3. Pertinent family information including, but not limited to, the names of family members who, by court order, are not allowed to visit the child;

4. Known or available medical history including, but not limited to:

- a. allergies,
- b. immunizations,
- c. childhood diseases,
- d. physical handicaps,
- e. psycho-social information, and
- f. the name of the child's last doctor, if known; and

5. Copies of policies and procedures of the placement agency which pertain to placement operations of the agency, and which may be necessary to properly inform the institution, foster parent or other custodian of the duties, rights and responsibilities of the custodian.

B. When the Department of Human Services places a child in out-of-home care, the Department shall provide the placement providers with sufficient medical information to enable the placement providers to care for the child appropriately. Such medical information shall include, but not be limited to:

1. Any medical or psychological conditions;
2. Diseases, illnesses, accidents, allergies, and congenital defects; and
3. Immunization history.

C. 1. When the Department places a child in out-of-home care, the placement providers may request the Department to provide

contagious or infectious screening examinations or tests on the child and provide the results to such placement providers.

2. The Department shall provide for the examinations or tests on the child in accordance with rules promulgated by the Department and based on the Centers for Disease Control guidelines for time and frequency of testing, and shall, for a child, regardless of age, in the Department's emergency or temporary custody, obtain the parental consent or, if parental consent cannot be obtained due to refusal or inability to locate, the Department shall ~~request an order from the district court authorizing~~ have the authority to give consent for such examinations or tests and the release of such results to the placement providers. Any parental consent ~~or judicial authorization~~ received by the Department, pursuant to the provisions of this section, shall also apply to any future examinations or tests and release of such results as deemed necessary by the Department upon the request of the placement providers. The Department has the authority to consent to the examinations or tests and the release of such test results for a child, regardless of age, in the Department's permanent custody.

3. The Department may also designate other persons who may request the performance of such examinations or tests on the child, including but not limited to Department employees, direct caregivers and physicians.

SECTION 2. AMENDATORY Section 9, Chapter 353, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7109), is amended to read as follows:

Section 7109. A. The Department of Human Services may provide information to a person or agency that provides professional services such as medical examination of or therapeutic intervention with a victim of abuse and neglect. This information may include but is not limited to:

1. The investigative determination; or

2. The services offered and provided.

B. The Department shall forward to any hospital or any physician, including but not limited to doctors of medicine and dentistry, licensed osteopathic physicians, residents and interns, reporting the physical abuse or sexual abuse of a child pursuant to Section ~~3~~ 7103 of this ~~act~~ title, information including the investigative determination and such other information deemed necessary by the Department. Such information shall be entered and maintained in the child's medical records.

C. 1. The Department of Human Services shall forward to the school principal of the school in which a child is enrolled making a child abuse report pursuant to Section ~~3~~ 7103 of this ~~act~~ title a summary of any confirmed report of sexual abuse or severe physical abuse of the Department concerning the child. The summary shall include a brief description of the circumstances of sexual abuse or serious physical abuse, the name of the parent or person responsible for the child's health or welfare, and the name of a Department employee who serves as a contact person regarding the case.

2. The Department shall not release data that would identify the person who made the initial child abuse or neglect report, other than an employee of the Department, or who cooperated in a subsequent investigation unless a court of competent jurisdiction orders release of the information for good cause shown.

3. The school principal shall forward to the receiving school all confirmed reports of sexual abuse and severe physical abuse received from the Department whenever a child transfers from one school district to another, and shall notify the Department of the child's new school, and address, if known.

4. Records maintained and transmitted pursuant to this section shall be confidential and shall be maintained and transmitted in the same manner as Special Education records or other such records, pursuant to Title 70 of the Oklahoma Statutes. Access to such

records may be made available by the principal or designee to a person designated to assist in the treatment of or with services provided to the child. Such records shall be destroyed when the student reaches eighteen (18) years of age.

D. The transmission of and access to such records shall not constitute a waiver of confidentiality.

E. This section shall not be interpreted to allow disclosure of any reports or records relevant to the reports of child abuse if the disclosure would be prohibited by any federal law applicable to the reports or records relevant to the reports of child abuse.

F. It shall be unlawful pursuant to the Oklahoma Child Abuse Reporting and Prevention Act for the Commission for Human Services, or any employee working under the direction of the Department of Human Services, any other public officer or employee, or any court-appointed special advocate to furnish or permit to be taken off of the records any information therein contained for commercial, political or any other unauthorized purpose.

G. Any person to whom disclosure is made shall not disclose to any other person reports or other information obtained pursuant to this section.

H. The Department shall submit the summary of confirmed sexual abuse or severe physical abuse of a child on forms developed by the Department. Such forms shall contain a warning that the information contained therein is confidential and may only be released to a person designated by the principal to assist in the treatment of or with services provided to a child.

SECTION 3. AMENDATORY Section 178, Chapter 352, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7307-1.2), is amended to read as follows:

Section 7307-1.2 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; and
6. Social records.

B. The limitation of subsection A of this section shall not apply to statistical information and information of a general nature obtained pursuant to the provisions of the Oklahoma Juvenile Code.

C. 1. The confidentiality restrictions required by subsection A of this section for juvenile court records and law enforcement records shall not apply:

- a. upon the certification of a juvenile as an adult pursuant to Section 7303-4.3 of ~~Title 10 of the Oklahoma Statutes~~ this title,
- b. upon the charging of an individual pursuant to Section 7306-1.1 of ~~Title 10 of the Oklahoma Statutes~~ this title,
- c. to a violation, by a child fourteen (14) or more years of age, of any provision of Title 47 of the Oklahoma Statutes or of any city ordinance or county resolution which relates to the regulation of traffic on the roads, highways or streets or the operation of self-propelled or nonself-propelled vehicles of any kind in this state,
- d. to a juvenile who has been previously adjudicated delinquent and who is subsequently adjudicated delinquent after July 1, 1995, ~~or~~
- e. to a juvenile adjudicated a delinquent for committing a delinquent act which, if committed by an adult,

would be a felony offense that is a crime against the person or a felony offense involving a dangerous weapon, or

f. to arrest records of a juvenile arrested for committing an act, which if committed by an adult, would be a felony offense.

2. The court having jurisdiction shall note on the juvenile court record of such juvenile offenders that said records are no longer confidential.

3. The provisions of this subsection shall only apply to the juvenile court records and law enforcement records of juvenile offenders certified, charged or adjudicated on and after July 1, 1995.

D. When a delinquent child has escaped or run away from a training school or other institutional placement for delinquents, the name and description of the child may be released to the public by the agency having custody of the child as necessary and appropriate for the protection of the public and the apprehension of the child.

E. Except as authorized by state or federal law, 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. Except as otherwise provided in Section 601.6 of ~~Title 10 of the Oklahoma Statutes~~ this title or in this article, no subpoena or subpoena duces tecum purporting to compel disclosure of such information or record shall be valid.

F. 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. Except for district attorney records, 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 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 discretion of the court.

G. 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~~ Section 620.6 of ~~Title 10 of the Oklahoma Statutes~~ this title and this article. 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.

H. In accordance with the provisions of the Serious and Habitual Juvenile Offender Act and Section 620.6 of ~~Title 10 of the Oklahoma Statutes~~ this 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 this article or as otherwise provided by this section.

I. The court may authorize a designated person to review juvenile court confidential reports and records and collect statistical information and other abstract information for research purposes. Such authorization shall be in writing and state specifically the type of information which may be reviewed.

Each person granted permission to inspect confidential reports and records for research purposes shall present a notarized statement to the court stating that the names of juveniles, parents and such other persons required by the court to be confidential will remain confidential.

J. Nothing in Section 620.6 of ~~Title 10 of the Oklahoma Statutes~~ this title or in this article 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~~ Section 55.1, 57, 60.17 or 60.29 of ~~Title 10 of the Oklahoma Statutes~~ 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 Juvenile Justice from summarizing the outcome of an investigation to the person who

reported a known or suspected instance of child abuse or neglect;
and

7. Prohibiting the person or agency conducting a preliminary inquiry relating to an alleged delinquent act from providing information, as to the disposition of the matter by the district attorney, to the person or agency which referred the matter, including but not limited to whether a petition was filed or an alternative action taken, and the basis for such and the terms of any agreement entered into by the child for payment of restitution, including but not limited to community services.

SECTION 4. This act shall become effective November 1, 1996."

Passed the House of Representatives the 2nd day of April, 1996.

Speaker of the House of
Representatives

Passed the Senate the ____ day of _____, 1996.

President of the Senate