

ENROLLED SENATE
BILL NO. 388

By: Brown and Stipe of the
Senate

and

Toure of the House

An Act relating to children; amending 10 O.S. 1991, Sections 1150.2, as last amended by Section 1, Chapter 31, O.S.L. 1994 and 1150.3, as amended by Section 2, Chapter 195, O.S.L. 1993 (10 O.S. Supp. 1994, Sections 1150.2 and 1150.3), which relate to the Child Death Review Board; clarifying statutory reference; modifying powers and duties of Board; expanding list of records and reports to be requested; providing for confidentiality of and exempting from subpoena or discovery certain information and records; construing section; requiring submission of certain report by certain date; modifying number of members and composition of Child Death Review Board; modifying length of terms of officers; and declaring an emergency.

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

SECTION 1. AMENDATORY 10 O.S. 1991, Section 1150.2, as last amended by Section 1, Chapter 31, O.S.L. 1994 (10 O.S. Supp. 1994, Section 1150.2), is amended to read as follows:

Section 1150.2 A. There is hereby re-created until July 1, 2000, in accordance with the Oklahoma Sunset Law, Section 3901 et seq. of Title 74 of the Oklahoma Statutes, the Child Death Review Board within the Oklahoma Commission on Children and Youth. The Board shall have the power and duty to:

1. Conduct case reviews of deaths of children in this state;
2. Develop accurate statistical information and identification of deaths of children due to abuse and neglect;
3. Improve the ability to provide protective services to the surviving siblings of a child or children who die of abuse or neglect and who may be living in a dangerous environment; and

4. Improve policies, procedures and practices within the agencies that serve children, including the child protection system.

B. In carrying out its duties and responsibilities the Board shall:

1. Establish criteria for cases involving the death of a child subject to specific, in-depth review by the Board;

2. Conduct a specific case review of those cases where the cause of death is or may be related to abuse or neglect of a child;

3. Establish and maintain statistical information related to the deaths of children, including, but not limited to, demographic and medical diagnostic information;

4. Review the policies, practices, and procedures of the child protection system and make specific recommendations to the entities comprising the child protection system for actions necessary for the improvement of the system;

5. As necessary and appropriate, for the protection of the siblings of a child who dies and whose siblings are deemed to be living in a dangerous environment, refer specific cases to the Department of Human Services or the appropriate district attorney for further investigation;

6. Request and obtain a copy of all records and reports pertaining to a child whose case is under review including, but not limited to:

- a. the medical examiner's report,
- b. hospital records,
- c. school records,
- d. court records,
- e. prosecutorial records,
- f. local, state, and federal law enforcement records, including, but not limited to, the Oklahoma State Bureau of Investigation (OSBI),
- g. fire department records,
- h. State Department of Health records, including birth certificate records,
- i. medical and dental records,
- j. Department of Mental Health and Substance Abuse Services and other mental health records,
- k. emergency medical service records, and
- l. Department of Human Services' files.

Confidential information provided to the Board shall be maintained by the Board in a confidential manner as otherwise required by state and federal law;

7. All information, documents and records in possession of the Board shall be confidential and not subject to subpoena or discovery in any civil or criminal proceedings; provided, however, information, documents and records otherwise available from other sources shall not be exempt from subpoena or discovery through those sources solely because such information, documents and records were presented to or reviewed by the Board;

8. Conduct reviews of specific cases of deaths of children and request the preparation of additional information and reports as determined to be necessary by the Board including, but not limited to, clinical summaries from treating physicians, chronologies of contact, and second opinion autopsies;

9. Recommend, when appropriate, amendment of the cause or manner of death listed on the death certificate; and

10. Subject to the approval of the Oklahoma Commission on Children and Youth, exercise all incidental powers necessary and proper for the implementation and administration of the Child Death Review Board Act, Section 1150 et seq. of this title.

C. The review and discussion of individual cases of death of a child shall be conducted in executive session and in compliance with the confidentiality requirements of Section 846 of Title 21 of the

Oklahoma Statutes. All other business shall be conducted in accordance with the provisions of the Oklahoma Open Meeting Act, Section 301 et seq. of Title 25 of the Oklahoma Statutes. All discussions of individual cases and any writings produced by or created for the Board in the course of its remedial measure and recommended by the Board as the result of a review of an individual case of the death of a child, shall be privileged and shall not be admissible in evidence in any proceeding. The Board shall periodically conduct meetings to discuss organization and business matters and any actions or recommendations aimed at improvement of the child protection system which shall be subject to the Oklahoma Open Meeting Act. Part of any meeting of the Board may be specifically designated as a business meeting of the Board subject to the Oklahoma Open Meeting Act.

D. 1. The Board shall submit an annual statistical report on the incidence and causes of death of children in this state during the past calendar year and submit a copy of this report, including its recommendations, to the Governor, the Oklahoma Commission on Children and Youth, the President Pro Tempore of the Senate and the Speaker of the House of Representatives on or before January 31 of each year.

2. The Oklahoma Commission on Children and Youth shall review the report of the Board and, as appropriate, incorporate the findings and recommendations into the annual Commission report and State Plan for Services to Children and Youth.

SECTION 2. AMENDATORY 10 O.S. 1991, Section 1150.3, as amended by Section 2, Chapter 195, O.S.L. 1993 (10 O.S. Supp. 1994, Section 1150.3), is amended to read as follows:

Section 1150.3 A. The Child Death Review Board shall be composed of twenty-six (26) members, or their designees, as follows:

1. Thirteen of the members shall be:

- a. the Chief Medical Examiner,
- b. the Director of the Department of Human Services. The designee of the Director of the Department of Human Services shall be a person assigned to the Child Welfare Division of the Department,
- c. the State Commissioner of Health,
- d. the Director of the Office of Child Abuse Prevention,
- e. the Director of the Oklahoma Commission on Children and Youth,
- f. the Chief Child Abuse Medical Examiner,
- g. the Medical Director of Maternal and Infant Health Services of the State Department of Health,
- h. the Commissioner of Mental Health and Substance Abuse Services,
- i. the Chair of the Child Protection Committee of the Children's Hospital of Oklahoma,
- j. the Director of the Office of Juvenile Affairs,
- k. the Chief of Injury Prevention Services of the State Department of Health,
- l. a physician from Maternal and Infant Health Services within the State Department of Health, and
- m. the State Epidemiologist of the State Department of Health; and

2. Thirteen of the members shall be appointed by the Director of the Oklahoma Commission on Children and Youth, shall serve for terms of two (2) years, and shall be eligible for reappointment. The members shall be persons having training and experience in matters related to the abuse or neglect of a child. The appointed members shall include:

- a. a law enforcement officer selected from lists submitted by the executive boards of organizations

- representing sheriffs and peace officers in this state,
- b. an attorney licensed in this state who is in private practice selected from a list submitted by the executive board of the Oklahoma Bar Association,
 - c. a district attorney selected from a list submitted by the District Attorney's Council,
 - d. a physician selected from lists submitted by statewide organizations representing physicians in this state,
 - e. a physician selected from lists submitted by statewide organizations representing osteopathic physicians in this state,
 - f. a member of the State Post-Adjudication Review Advisory Board,
 - g. a social worker selected from a list submitted by each organization representing social workers,
 - h. an individual selected from lists submitted by Oklahoma court-appointed special advocate associations,
 - i. a psychologist selected from lists submitted by Oklahoma psychological associations,
 - j. a member of a Native American Tribe involved in the area of protection of Native American children selected from a list submitted by the Office of Indian Affairs,
 - k. an individual selected from lists submitted by Oklahoma coalitions or associations against domestic violence and sexual assault,
 - l. a pediatric physician selected from lists submitted by organizations of pediatric physicians or osteopaths, and
 - m. a member of an emergency medical technicians association.

B. Every two (2) years the Board shall elect from among its membership a chair and a vice-chair. The Board shall meet at least quarterly and may meet more frequently as necessary as determined by the chair. Members shall serve without compensation but may be reimbursed for necessary travel out of funds available to the Commission pursuant to the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes; provided, that the reimbursement shall be paid in the case of state employee members by the agency employing the member.

C. With funds appropriated or otherwise available for that purpose, the Commission shall provide administrative assistance and services to the Child Death Review Board.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.