

SHORT TITLE: Children; modifying powers, duties, number of members and composition of the Child Death Review Board; emergency.

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

SENATE BILL NO. 388

By: Brown

AS INTRODUCED

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 application for a subpoena for certain purpose; providing for service and enforcement of subpoenas; providing for confidentiality of certain information and records; providing exception; prohibiting questioning of certain persons; construing section; requiring submission of certain report by certain date; modifying number of members and composition of Child Death Review Board; 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 ~~child~~ deaths of children under the age of eighteen (18) years in this state;

2. Develop accurate statistical information and identification of child deaths due to abuse and neglect;

3. Improve the ability to provide protective services to the siblings of children who die, including siblings of abused or neglected children, who may still 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 of child death subject to specific, in-depth review ~~or investigation~~ by the Board;

2. Conduct a specific case review of those cases ~~referred by the Office of Chief Medical Examiner~~ where the cause of death is or may be related to child abuse or neglect;

3. Establish and maintain statistical information related to child deaths ~~resulting from child abuse and neglect,~~ 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 ~~said~~ the system;

5. As necessary and appropriate, for the protection of the siblings of a child ~~whose death is the result of child abuse or neglect~~ who dies and such 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 all records and reports pertaining to a child whose case is under review including, but not limited to 7:

- 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 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' ~~protective service~~
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. The Director of the Oklahoma Commission on Children and Youth or a designee may apply to the appropriate court for a subpoena as necessary to compel the production of books, records, documents and other evidence related to a child fatality review. Subpoenas so issued shall be served and, upon application to the court by the Director or a designee, enforced in the manner provided by law for the service and enforcement of subpoenas.

All information and records acquired by the Board shall be confidential and not subject to subpoena, discovery or introduction into evidence in any civil or criminal proceedings, except that information, documents and records otherwise available from other sources are not exempt from subpoena, discovery or introduction into evidence through those sources solely because they were presented to or reviewed by the Board.

Members of the Board and persons attending or presenting information during executive sessions of the Board may not be questioned in any civil or criminal proceedings regarding information presented in or opinions formed as a result of an executive session. Nothing in this subsection shall be construed to prevent a person from testifying to information obtained independently of the Board or which is public information;

8. Conduct investigations ~~reviews~~ of specific cases of child deaths 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.—Second opinion autopsies shall be requested through the Office of the Chief Medical Examiner as otherwise provided by law;

~~8.~~ 9. Recommend alternate, when appropriate, amendment of the cause and/or manner of death determinations in cases where abuse or neglect as the cause of death is documented but said cause is not shown listed on the death certificate; and

~~9.~~ 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 Child Death Review Board may receive, review and discuss,~~ discussion of individual child fatality cases must be conducted in executive session, information on individual child

~~abuse investigations and prosecution; provided, however, that the Child Death Review Board shall assure~~ and in compliance with confidentiality requirements of Section 846 of Title 21 of the Oklahoma Statutes. ~~Except when discussing individual cases, the Board shall comply~~ 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 ~~review of any individual case, including any specific action or~~ remedial measure and recommended by the Board as the result of a review of an individual case, 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 and such meetings shall be subject to the Oklahoma Open Meeting Act, ~~Section 301 et seq. of Title 25 of the Oklahoma Statutes.~~ 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, ~~Section 301 et seq. of Title 25 of the Oklahoma Statutes.~~

D. The Board shall ~~make~~ conduct an annual statistical report ~~of its findings and~~ on the incidence and causes of child fatalities in this state during the past calendar year and submit a copy of this report, including its recommendations for ~~the improvement of the child protection system~~ action, to the Governor, ~~the Oklahoma Public Welfare Commission, the Oklahoma Commission on Children and Youth,~~ the President Pro Tempore of the Senate, and the Speaker of the House of Representatives ~~and each agency or organization affected by the report.~~ The Board shall submit the report on or before January 31 of each year. 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-one (21)~~ twenty-eight (28) members, or their designees, as follows:

1. ~~Ten~~ Thirteen of the members shall be:
 - a. the Chief Medical Examiner ~~or his designee~~,
 - b. ~~the~~ Director of the Department of Human Services ~~or his designee~~. 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 ~~or his designee~~,
 - d. ~~the~~ Director of the Office of Child Abuse Prevention ~~or his designee~~,
 - e. the Director of the Oklahoma Commission on Children and Youth ~~or his designee~~,
 - f. ~~the~~ Chief Child Abuse Medical Examiner ~~or his designee~~,
 - g. the ~~Chief~~ Medical Director of Maternal and ~~Child~~ Infant Health Services of the State Department of Health ~~or his designee~~,
 - h. ~~the~~ Director of the Department of Mental Health and Substance Abuse Services ~~or his designee~~,
 - i. the ~~Chairman~~ Chair of the Child Protection Committee of the Children's Hospital of Oklahoma ~~or his designee~~,
 - 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
- ~~j.~~ m. the State Epidemiologist of the State Department of Health ~~or his designee;~~ and

2. ~~Eleven~~ Fifteen of the members, who shall be appointed by the Director of the Oklahoma Commission on Children and Youth. ~~They,~~ shall serve for a term of two (2) years and may be reappointed. Said members shall be persons having training and experience in matters related to child abuse or neglect. The appointed members shall include:

- a. a law enforcement officer ~~selected from a list submitted by the executive board of an organization representing sheriffs and peace officers in this state or such officer's designee,~~
- b. ~~a member of the judiciary selected from a list submitted by the Chief Justice of the Supreme Court or such member's designee,~~
- c. ~~an attorney licensed in this state who is in private practice selected from a list submitted by the executive board~~ a member of the Oklahoma Bar Association ~~or such attorney's designee,~~
- d. a district attorney ~~selected from a list submitted by the District Attorney's Council or such district attorney's designee,~~
- e. ~~a pediatric allopathic physician selected from a list submitted by a statewide organization representing physicians in this state or such physician's designee~~ who is a member of the Oklahoma State Medical Association,

- f. ~~a pediatric osteopathic physician selected from a list submitted by a statewide organization representing osteopathic physicians in this state or such physician's designee who is a member of the Oklahoma Osteopathic Association,~~
- g. ~~a social worker licensed in this state who is not an employee of the Department of Human Services selected from a list submitted by each organization in this state representing social workers in this state or such social worker's designee member of the State Post Adjudication Review Advisory Board,~~
- h. ~~a psychologist licensed in this state selected from a list submitted by each organization representing psychologists in this state or such psychologist's designee member of the Oklahoma Chapter of the National Association of Social Workers,~~
- i. ~~a representative of the State Foster Care Review Board or such representative's designee,~~
- j. ~~a representative of the Oklahoma Casa court-appointed special advocate Association or such representative's designee, and~~
- j. a member of the Oklahoma Psychological Association,
- k. ~~a member of an enrolled member of a Native American Indian Tribe who is a citizen of this state and is involved in the placement area of Indian child protection of Native American children under the Indian Child Welfare Act or such member's designee,~~
- l. a member of the Oklahoma Coalition Against Domestic Violence and Sexual Assault,
- m. a physician who is a member of the Oklahoma Chapter of the American Academy of Pediatrics, and

n. a member of the Emergency Medical Technicians Association.

B. The Board shall ~~annually~~ biennially elect from among its membership a ~~Chairman~~ chair and a ~~Vice-Chairman~~ vice-chair. The Board shall meet at least quarterly and may meet more frequently as necessary as determined by the ~~Chairman~~ 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 ~~said~~ 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.

45-1-0758

CJ