

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

HOUSE BILL NO. 1373

By: Davis

AS INTRODUCED

An Act relating to children; amending Section 4, Chapter 297, O.S.L. 1996 and Section 5, Chapter 297, O.S.L. 1996 (10 O.S. Supp. 1996, Sections 60.5B and 60.5C), which relate to medical and social history reports; authorizing the court to determine the reports unnecessary or overburdensome to the adoption; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 4, Chapter 297, O.S.L. 1996 (10 O.S. Supp. 1996, Section 60.5B), is amended to read as follows:

Section 60.5B A. 1. ~~Before~~ Except as otherwise provided by Section 60.5C of this title, before placing a child for adoption, the Department or a child-placing agency shall compile a written medical and social history report of the child to be adopted, containing:

- a. all of the information required in subsections B and C of this section that is reasonably available from each biological parent, from any person who has had legal or physical custody of the child, and from any other

relative, or other person or entity who can provide information that cannot otherwise reasonably be obtained from the biological parents or a person who has had legal or physical custody of the child,

b. a copy of all medical, dental and psychological records of the child obtained from anyone who has provided medical, dental or psychological services to the child, and

c. a copy of all educational records of the child.

2. If a child is not being placed for adoption through the Department or a child-placing agency, the attorney representing the adoptive parent in the adoption proceedings shall compile this report. If the adoptive parent is not represented by an attorney in a direct placement adoption, the person placing the child for adoption shall compile this report.

B. 1. The Department of Health shall prescribe the form to be used to record the medical history of the child and the child's biological relatives. The Department of Health shall furnish the forms to any child-placing agency, to the Department of Human Services and to any person who is authorized to place a child for adoption or who provides services with respect to placements for adoption.

2. The medical history form shall include, but is not limited to:

a. a current medical and psychological history of the child, including information concerning:

(1) any prenatal, neonatal, medical, dental, psychiatric or psychological diagnoses, examinations or reports,

(2) any diseases, illnesses, accidents, allergies, and congenital or birth defects,

- (3) a record of any immunization and other health care received,
- (4) the child's developmental history, including the age at which the child developed basic gross motor, fine motor, language and cognitive skills,
- (5) any behavioral problems the child has exhibited,
- (6) any physical, sexual or emotional abuse suffered by the child, and
- (7) any other information necessary to determine the child's eligibility for state or federal benefits, including subsidies for adoption and other financial, medical, or similar assistance, and

b. relevant information concerning the medical and psychological history of the child's biological parents and relatives, including information concerning:

- (1) the gynecologic and obstetric history of the biological mother,
- (2) the health of the biological mother during her pregnancy with this child,
- (3) the consumption of drugs, medication or alcohol by the biological father or the biological mother at the time of conception and by the biological mother during her pregnancy with this child,
- (4) the exposure of the biological mother to toxic substances, fumes or occupational hazards during her pregnancy that could affect the health of the child,
- (5) whether the child's biological mother and biological father are related to each other and to what degree,

- (6) any history of venereal disease afflicting either biological parent,
- (7) physical characteristics of the biological parents, other children of either biological parent, and the biological grandparents, including age at the time of the child's birth, height, weight, color of eyes, hair, skin and other information of a similar nature,
- (8) unusual physical characteristics of any biological parent, other children of either biological parent, biological grandparents and other biological relatives,
- (9) potentially inheritable genetic, psychological, or physical diseases, disorders, traits, or tendencies of the biological parents, other children of either biological parent, the biological grandparents or other biological relatives,
- (10) allergies, diseases, illnesses, and other medical history of biological parents, other children of either biological parent, biological grandparents and other biological relatives, including but not limited to diabetes, high blood pressure, alcoholism, heart disease, cancer, and epilepsy or predisposition thereto,
- (11) any addiction or predisposition to addiction to drugs or alcohol by the biological parents, other children of either biological parent, biological grandparents or other biological relatives,
- (12) if the death of either biological parent, other children of either biological parent, or a biological grandparent has occurred, the fact of

the death, the age of the decedent at the time of death, and the cause, if known,

(13) the psychological history of the biological parents, other children of either biological parent, biological grandparents and other biological relatives, including any psychiatric or psychological evaluations, the date of the evaluation, any diagnoses, and a summary of any psychiatric or psychological findings or treatment, and

(14) any other useful or unusual health-related information that the biological parents or relatives are willing to provide.

C. The social history report regarding the child to be adopted, the biological parents, other children of either biological parent and other biological relatives shall include, but is not limited to:

1. The educational history of the child including, but not limited to, the child's enrollment and performance in school, the results of educational testing, special educational needs of the child, if any, and the number of years of school completed at the time of the adoption;

2. The age of the child, the biological parents, other children of either biological parent, and the biological grandparents at the time of the adoption, and the gender of the other children of either biological parent;

3. The circumstances leading to the adoption;

4. The heritage of the child including, but not limited to, the child's nationality, ethnic background, tribal affiliation, if any, and race;

5. The occupation of the biological parents and the biological grandparents, but not specific titles or places of employment;

6. The talents, hobbies and special interests of the child, the biological parents, and the biological grandparents;

7. Nonidentifying information about the extended family of the biological parents and biological grandparents;

8. The level of educational and vocational achievement of the child's biological parents and relatives and any noteworthy accomplishments;

9. An account of the child's past and existing relationship with any individual with whom the child has regularly lived or visited;

10. A criminal conviction, judicial order terminating parental rights, or other proceeding in which a biological parent of the child was alleged to have abused, neglected, abandoned or otherwise mistreated the child to be adopted, a sibling of the child to be adopted, or the other biological parent; and

11. A criminal conviction or delinquency adjudication of the child.

D. A report prepared pursuant to this section must indicate who prepared the report.

E. 1. Whenever it is feasible, biological parents, legal or physical custodians of the child and other biological relatives should be assisted in providing information for the medical and social history report by trained professionals employed by the Department or the licensed child-placing agency, by the attorney for the adoptive parents or by trained professionals employed by the attorney for the adoptive parent.

2. The Department or agency, attorney for the adoptive parent, or person who prepares the medical and social history report shall advise the biological parents, any other persons who submitted information for the report and the adoptive parent that additional information about the adopted person, the biological parents, and the adopted person's genetic history that becomes available may be

submitted to the Department, agency, attorney, or person who prepared the report or if the location is known to them, to the clerk of the court that issues the decree of adoption. Nothing in this section shall require that the location of the court in which the adoption action is filed be revealed to the biological parents, biological relatives or other persons who submitted information for the report, if the location is not otherwise known to them.

F. The court may request that a biological parent, a present or former legal or physical custodian of the child, a biological relative, a school, or a medical, dental or psychological care provider for the child supply the information or records required by this section.

G. Information contained in a medical and social history report compiled pursuant to this section shall not be used as evidence in any criminal proceeding against the individual who furnished the information. This is a use immunity and not a transactional immunity.

H. If the petitioner for the adoption of a child is a stepparent of the child and the child will remain in the custody of one biological parent and the stepparent following the adoption, only the medical and social history of the parent whose parental rights are sought to be terminated and that parent's biological relatives must be compiled in the medical and social history report.

SECTION 2. AMENDATORY Section 5, Chapter 297, O.S.L. 1996 (10 O.S. Supp. 1996, Section 60.5C), is amended to read as follows:

Section 60.5C A. Whenever the disclosure of medical and social history is permitted under this section, all identifying information shall be deleted from the copy of the report or record that is disclosed, unless the court, Department, agency, attorney, or person authorized to disclose information by this section has been informed in writing by both a biological parent and an adoptive parent or

prospective adoptive parent of their mutual agreement to share identifying information. When such an agreement has been made, identifying information shall be released only to the extent specifically permitted by the written agreement.

B. As early as practicable before the first meeting of the prospective adoptive parent with a child and before the prospective adoptive parent accepts physical custody of the child, the Department or child-placing agency that is placing the child for adoption, or the attorney for the adoptive parent in a direct placement adoption, or the person who is placing the child for adoption in a direct placement adoption in which the adoptive parent is not represented by an attorney, shall furnish to the prospective adoptive parent a copy of the medical and social history report, containing all of the medical and social history information and records regarding the child reasonably available at that time. If placement of the child with the prospective adoptive parent does not subsequently occur, the prospective adoptive parent shall return the medical and social history report to the Department, agency, attorney or other person who furnished it to the prospective adoptive parent.

C. Before a hearing on the petition for adoption, the Department or child-placing agency that placed the child for adoption, or the attorney for the adoptive parent in a direct placement adoption, or the person who placed the child for adoption in a direct placement adoption in which the adoptive parent is unrepresented, shall furnish to the adoptive parent a supplemental written report containing information or records required by Section 4 60.5B of this ~~act~~ title, which was unavailable before the child was placed for adoption, but which becomes reasonably available to the Department, agency, attorney, or person who placed the child after the placement.

D. A petition for adoption may not be granted until a copy of the medical and social history report is filed with the court or the court determines the medical and social history report unnecessary or overburdensome to the adoption of the child. If the court finds that information or records required by Section 4 60.5B of this ~~act~~ title cannot be obtained by the reasonable efforts of the Department or child-placing agency placing the child, or by the attorney for the adoptive parent in a direct placement adoption, or by the person who placed the child for adoption in a direct placement adoption in which the adopted parent is unrepresented, the court may accept the report and proceed with the adoption.

E. 1. Any additional information about an adopted person, the adopted person's biological parents, or the adopted person's genetic history that is submitted to the clerk of the district court that issues the final decree of adoption, before or after the final decree of adoption is issued, shall be made a part of the court's permanent record of the adoption, pursuant to Section 60.17 of Title 10 of the Oklahoma Statutes. No filing fee shall be charged for filing this supplemental information with the court clerk.

2. An adoptive parent, a biological parent, or an adult adopted person may file with the clerk of the district court that issued the final decree of adoption a notice of the individual's current mailing address. A legal guardian of an adopted child may file with the clerk of the district court that issued the final decree of adoption a notice of the guardian's current mailing address and proof of legal guardianship. No filing fee shall be charged for filing this notification of address or guardianship with the court clerk.

3. Upon receipt by the court clerk of supplemental information concerning the biological parents or the adopted person's genetic history, the court clerk shall send notice by ordinary mail, at the most recent address, if any, listed in the court records, to the

adoptive parent or legal guardian of a minor adopted person or to the adult adopted person. The notice shall state that supplemental information has been received and is available from the court clerk upon request.

4. Upon receipt by the court clerk of supplemental information concerning the adopted person that may be genetically significant for a biological parent or biological relative, the court clerk shall send notice by ordinary mail, at the most recent address, if any, listed in the court records, to the biological parent. The notice shall state that supplemental information has been received and is available from the court clerk upon request.

F. If any additional information about an adopted person, the adopted person's biological parents, or the adopted person's genetic history is submitted to the Department, agency, attorney, or person who prepared the original report, the Department, agency, attorney, or person shall:

1. Retain this supplemental information with their other records of the adoption for as long as these records are maintained;

2. File a copy of the supplemental information with the clerk of the court that issued the decree of adoption, to be made a part of the court's permanent record of the adoption pursuant to subsection E of this section; and

3. Furnish a copy of the supplemental information to:

a. the adoptive parent or current legal guardian of the child, if the adopted person is under the age of eighteen (18), or the adult adopted person, if the location of the adoptive parent, guardian or adult adopted person is known to the Department, agency, attorney, or person, or

b. the biological parents, if the supplemental information is submitted by an adoptive parent or adopted person and concerns genetically significant

information about the adopted person that is relevant to the health or childbearing decisions of the biological parents or other biological relatives, if the location of the biological parents is known to the Department, agency, attorney, or person.

G. 1. The clerk of the district court that issues the final adoption decree or the Department, agency, attorney, or person who prepared the medical and social history report shall provide a copy of the medical and social history report and any additional medical and social history information in its possession to the following persons upon request:

- a. the adoptive parent or legal guardian of a minor adopted person,
- b. an adopted person who has attained eighteen (18) years of age, and
- c. an adult whose biological mother's and biological father's parental rights were terminated and who was never adopted.

2. The clerk of the district court that issues the final adoption decree or the Department, agency, attorney, or person who prepared the medical and social history report shall provide a copy of the medical report and any additional medical information in its possession to the following persons upon request:

- a. an adult direct descendant of a deceased adopted person or of a deceased person whose biological mother's and biological father's parental rights were terminated and who was never adopted, and
- b. the parent or guardian of a minor direct descendant of a deceased adopted person or of a deceased person whose biological mother's and biological father's rights were terminated and who was never adopted.

3. The clerk of the district court that issues the final adoption decree or the Department, agency, attorney, or person who prepared the medical and social history report shall provide a copy of genetically significant information about an adopted person, or about a person whose parents' parental rights were terminated, to the following persons upon request:

- a. a biological parent or biological relative of an adopted person, and
- b. a biological parent or biological relative of a person whose biological mother's and biological father's rights were terminated and who was never adopted.

4. The clerk of the district court that issues the final adoption decree shall provide a copy of any medical and social history information contained in the court records to the Department, or child-placing agency that placed the child for adoption or to the attorney representing the adoptive parent upon request.

5. A copy of the report and supplemental medical and social history information may not be furnished under this subsection to a person who cannot furnish satisfactory proof of identity and legal entitlement to receive a copy.

6. A person requesting a copy of a report or other medical and social history information under this subsection shall pay only the actual and reasonable costs of providing the copy.

H. The Department, a child-placing agency, or an attorney for an adoptive parent who facilitated or participated in an adoption proceeding prior to the effective date of this act shall be subject to the same requirements and duties set forth in subsections F and G of this section that are required in those subsections for the Department, agency, or attorney who prepared the medical or social history.

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.

46-1-5847

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