STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

HOUSE BILL NO. 1341 By: Davis

AS INTRODUCED

An Act relating to children; amending 10 O.S. 1991, Section 1125.1, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 7, Chapter 416, O.S.L. 1998 (10 O.S. Supp. 1998, Section 7005-1.2), which relates to the Oklahoma Children's Code; requiring determination by a designated judge relating to the release, disclosure, correction or expungement of confidential records; providing procedures; 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, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 7, Chapter 416, O.S.L. 1998 (10 O.S. Supp. 1998, Section 7005-1.2), is amended to read as follows:

Section 7005-1.2 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 other abstract information obtained pursuant to the provisions of the Oklahoma Children's Code.

C. Except as authorized by Section 620.6 of this title and this article 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. Except as otherwise provided in Section 601.6 of this title, no subpoena or subpoena duces tecum purporting to compel disclosure of such information or record shall be valid.

D. 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 a judge of the district court designated pursuant to this subsection, 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's records, any order authorizing the disclosure, release or inspection of such 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 three (3) judicial days' notice to the agency holding the records and the person who is the subject of the record if such person is eighteen (18) years of age or older or to the parents of a child less than eighteen (18) years of age 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. Upon the filing of a petition for an order of the court pursuant to this section, the judge of the court having jurisdiction to issue the order authorized by this section shall request the presiding judge of the judicial district to designate another judge to review the confidential records and make a determination as to whether any information contained in the records may be inspected, released, disclosed, corrected or expunged. Any order issued by the judge of the court having jurisdiction to issue such order shall be based on and consistent with the determination of the judge reviewing the confidential records.

E. 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 Section 620.6 of 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, subject to the provisions of subsection D of this section.

F. 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 children, parents and such other persons required by the court to be confidential will remain confidential.

G. Nothing in Section 620.6 of this title and 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 papers, records, books or other information relating to the adoption of a child required to be kept confidential. The disclosure of such information shall be governed by the provisions of the Oklahoma Adoption ~~Act~~ Code;

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 deprived 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 or to any person providing services to a child who is or is alleged to be a victim of child abuse;

7. Authorizing the disclosure of the identity or location information of any person who has reported an allegation of known or suspected child abuse or neglect unless such disclosure is specifically ordered by the court; or

8. Prohibiting the Department of Human Services from providing a summary of allegations and findings of an investigation involving

a child care facility that does not disclose identities but that permits parents to evaluate the facility.

H. The confidential records listed in subsection A of this section may be inspected and their contents disclosed without a court order to a school district in which the child who is the subject of the record is currently enrolled. The inspection of records and disclosure authorized by this subsection may be limited to summaries or to information directly necessary for the purpose of such inspection or disclosure. Upon request by the school district, the agency in possession of the records shall provide the requested information to the school district. Any records disclosed as provided by this subsection shall remain confidential. The use of any information shall be limited to the purposes for which disclosure is authorized.

SECTION 2. This act shall become effective November 1, 1999.

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