EHB 1862

THE STATE SENATE
Thursday, March 23, 2000

ENGROSSED

House Bill No. 1862

ENGROSSED HOUSE BILL NO. 1862 - By: EASLEY of the House and HARRISON of the Senate.

An Act relating to sunset; amending 10 O.S. 1991, Section 1150.2, as last amended by Section 3, Chapter 416, O.S.L. 1998 (10 O.S. Supp. 1999, Section 1150.2), which relates to the Child Death Review Board; re-creating such Board; and modifying termination date.

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 3, Chapter 416, O.S.L. 1998 (10 O.S. Supp. 1999, Section 1150.2), is amended to read as follows:

Section 1150.2 A. There is hereby re-created until July 1, ~~2000~~ 2006, 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 and near deaths of children in this state;

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

(Bold face denotes Committee Amendments)

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;

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

5. Enter into agreements with multidisciplinary teams established pursuant to Section 7110 of this title to carry out such duties and responsibilities as the Child Death Review Board shall designate, including reviewing cases assigned by the Board in the geographical area for that multidisciplinary team. The Oklahoma Commission on Children and Youth, with the advice of the Child Death Review Board, shall promulgate rules as necessary for the implementation and administration of the provisions of this paragraph.

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

1. Establish criteria for cases involving the death or near death of a child subject to specific, in-depth review by the Board. As used in this section, the term "near death" means a child is in serious or critical condition, as certified by a physician, as a result of abuse or neglect;

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

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

4. Establish procedures for obtaining initial information regarding near deaths of children from the Department of Human Services and law enforcement agencies;

5. 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;

6. Review the extent to which the state child protection system is coordinated with foster care and adoption programs and evaluate whether the state is efficiently discharging its child protection responsibilities under the federal Child Abuse Prevention and Treatment Act state plan;

7. 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;

8. 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. Any person damaged by disclosure of such confidential information by the Board, its local boards or

their members not authorized by law, may maintain an action for damages, costs and attorney fees;

9. Maintain all confidential information, documents and records in possession of the Board as 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;

10. Conduct reviews of specific cases of deaths and near 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;

11. Report, if recommended by a majority vote of the Board, to the President Pro Tempore of the Senate and the Speaker of the House of Representatives any gross neglect of duty by any state officer or state employee, or any problem within the child protective services system discovered by the Board while performing its duties;

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

13. 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 or near death of a child shall be conducted in executive session and in compliance with the confidentiality requirements of Section 7005-1.2 of this title. All other business shall be conducted in accordance with the provisions of the Oklahoma Open Meeting Act. 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 or near 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 and near death of children in this state for which the Board has completed its review during the past calendar year, including its recommendations, to the Oklahoma Commission on Children and Youth on or before May 1 of each year.

The Board shall also prepare and make available to the public, on an annual basis, a report containing a summary of the activities of the Board relating to the review of deaths and near deaths of children, the extent to which the state child protection system is coordinated with foster care and adoption programs, and an evaluation of whether the state is efficiently discharging its child protection responsibilities. The report shall be completed no later than December 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 the State Plan for Services to Children and Youth.

COMMITTEE REPORT BY: COMMITTEE ON SUNSET REVIEW, dated 3-21-00 - DO PASS.