

STATE OF OKLAHOMA

2nd Session of the 49th Legislature (2004)

COMMITTEE SUBSTITUTE  
FOR ENGROSSED  
HOUSE BILL 2375

By: Gilbert and McClain of the  
House

and

Cain of the Senate

COMMITTEE SUBSTITUTE

An Act relating to children; amending 10 O.S. 2001, Sections 601.4, 601.6b, 601.12, 601.30, 601.31, 1150.2 and 1150.3, which relate to duties and responsibilities of the Oklahoma Commission on Children and Youth, the State Plan for Services to Children and Youth, community partnership board interagency agreements, the Board of Child Abuse Examination, Child Abuse Examiners, the Child Death Review Board, and membership of the Child Death Review Board; expanding duties and responsibilities; modifying contents of Plan; deleting responsibility for developing interagency agreements; adding to membership; adding specified professions to persons trained as Child Abuse Examiners; providing for distribution and effective date of rules; modifying and adding to certain duties of certain teams; adding to membership; and declaring an emergency.

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

SECTION 1. AMENDATORY 10 O.S. 2001, Section 601.4, is amended to read as follows:

Section 601.4 The Oklahoma Commission on Children and Youth is further authorized to:

1. Facilitate joint planning and service coordination among public and private agencies that provide services to children and youth;
2. Prepare and publish reports;
3. Review the programs, policies and services for children and youth provided by public and private agencies for compliance with established state policies and progress towards goals identified in

planning documents relating to children and youth services and to make reports regarding ~~said~~ such compliance and progress;

4. Accept appropriations, gifts, loans and grants from the state and federal government and from other sources, public or private;

5. Enter into agreements or contracts for the development of test models or demonstration programs and projects and for programs of practical research for effective services to children and youth; provided that the administration of contract for such model programs and projects shall, within five (5) years of their inception, be transferred to an appropriate agency or the program or project shall be discontinued;

6. Secure necessary statistical, technical, administrative, operational and staff services by interagency agreement or contract;

7. Examine all records, plans, budgets and budget documents pertaining to the children and youth service system;

8. Exercise all incidental powers as necessary and proper for the performance of the duties and responsibilities of the Commission; ~~and~~

9. Promulgate rules ~~and regulations~~ as necessary to carry out the duties and responsibilities assigned to the Oklahoma Commission on Children and Youth; and

10. Recommend closure or termination of the state contract of a facility that provides services to children and youth.

SECTION 2. AMENDATORY 10 O.S. 2001, Section 601.6b, is amended to read as follows:

Section 601.6b A. Beginning July 1, 1991, and on or before July 1 of each year thereafter, the Oklahoma Commission on Children and Youth shall transmit to the Director of State Finance and to the director of each affected agency a copy of the State Plan for Services to Children and Youth for the next fiscal year.

B. The Director of the Office of State Finance, in accordance with procedures mutually agreed upon by the Office of State Finance and the Commission, shall regularly compile and transmit to the Office of Planning and Coordination for Services to Children and Youth, by agency and appropriate service category, past, current and projected expenditures, budget requests, and other fiscal information related to state and state-supported services to children, youth and families.

~~C. Beginning on September 1, 1991, and on or before September 1 of each year thereafter, the Director of State Finance shall compile, in a form agreed upon by the Office of State Finance and the Commission, and provide to the Office of Planning and Coordination for Services to Children and Youth copies of the budget requests for the next fiscal year by state agencies that provide services to children, youth and families. The Office of Planning and Coordination for Services to Children and Youth shall review said budget requests and report to the Commission, the Governor, the Director of State Finance, and each affected agency director the extent to which the budget requests conform with or differ from the goals and priorities established in the State Plan for Services to Children and Youth, including but not limited to, specific areas of conformity or nonconformity.~~

~~D. The Office of Planning and Coordination shall annually monitor and evaluate the implementation of the goals, priorities and recommendations included in the State Plan for Services to Children and Youth and shall make reports and provide information to the Commission, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the chairmen of the appropriations committees of the Legislature and the affected agency directors as necessary and appropriate to provide assistance for the implementation of said Plan.~~

The Office of Planning and Coordination, with the assistance of the Office of State Finance, shall, on an annual basis, assemble past and current expenditures and future budget requests for services as they relate to the goals identified by the Commission in the State Plan for Services to Children and Youth.

D. The Office of Planning and Coordination, with the assistance of the Office of State Finance and affected agencies, may assemble topic-specific reports regarding services to children, youth, and families to include program descriptions, past and current expenditures, future budget requests, and a description of program outcomes as directed by the Legislature or the Commission.

SECTION 3. AMENDATORY 10 O.S. 2001, Section 601.12, is amended to read as follows:

Section 601.12 A. Each community partnership board shall, with the assistance of the Office of Planning and Coordination for Services to Children and Youth, prepare and implement a district plan for children and youth services and for the development and coordination of such services within its district. The district plans shall be transmitted to the Office of Planning and Coordination for Services to Children and Youth and the Oklahoma Commission on Children and Youth, for such entities' review and use in the preparation of the State Plan for Services to Children and Youth.

~~B. Each community partnership board shall assist in the development of interagency agreements that ensure that services provided to students pursuant to the Individuals with Disabilities Education Act (IDEA) are delivered cooperatively by local education agencies, the State Department of Education, the State Department of Vocational and Technical Education, the Department of Human Services, the Office of Juvenile Affairs, the State Department of Health, the Department of Mental Health and Substance Abuse Services, the State Department of Rehabilitation Services, the~~

~~Oklahoma Health Care Authority, and other appropriate public agencies and private agencies supported in whole or in part with public funds.~~

~~C.~~ Each community partnership board shall develop a written statement clearly identifying its operating procedures, purpose, overall responsibilities and method of meeting those responsibilities.

~~D.~~ C. The district plan shall address the needs of children, youth and families as they relate to education, health, mental health, economic security, safety and human services issues, and shall contain:

1. Identified goals, intended outcomes, and priorities for serving children and families;

2. A description of specific needs to be addressed by the plan, as well as services and other support available through public, private, and community-based organizations;

3. A description of the amount of all federal, state and local government, and private funds needed to implement the local plan;

4. A plan for sharing data among agencies and across levels of government in accordance with state and federal law;

5. Recommendations for proposed policy or program changes and alternative funding strategies for meeting identified needs;

6. An implementation strategy and time line; and

7. A description of the resources, types of assistance or training needed ~~in order~~ to implement the plan.

SECTION 4. AMENDATORY 10 O.S. 2001, Section 601.30, is amended to read as follows:

Section 601.30 A. For the purpose of establishing a statewide system to provide expert medical evaluation for children suspected to be the victims of child abuse or neglect, there is hereby created the Board of Child Abuse Examination within the Oklahoma Commission on Children and Youth.

B. The Board shall consist of ~~seven (7)~~ ten (10) members as follows:

1. The Director of the State Bureau of Investigation, or his a designee;

2. The Commissioner of the State Department of Health, or his a designee;

3. The Director of the Department of Human Services, or his a designee;

4. The Director of the Oklahoma State District Attorneys Association, or his a designee;

5. The president of a statewide association of osteopathic physicians, or his a designee;

6. The president of a statewide association of allopathic physicians, or his a designee; ~~and~~

7. The Chief Executive Officer of the Oklahoma Health Care Authority, or a designee;

8. The Executive Director of the Oklahoma Board of Nursing, or a designee;

9. A representative of a statewide association of child advocacy centers; and

10. The Chief Child Abuse Examiner provided for by Section 2 601.31 of this ~~act~~ title. The Chief Child Abuse Examiner shall be a ~~non-voting~~ nonvoting member of the Board.

~~B.~~ C. 1. The Board shall annually elect one member to serve as ~~chairman~~ chair and one member to serve as ~~vice-chairman~~ vice-chair.

2. The members of the Board shall receive no compensation for their services on the Board, but may be reimbursed pursuant to the State Travel Reimbursement Act.

3. The Board shall meet not less than quarterly and may meet more frequently as necessary, as determined by the chairman. ~~Five~~ Six members shall constitute a quorum.

SECTION 5. AMENDATORY 10 O.S. 2001, Section 601.31, is amended to read as follows:

Section 601.31 A. The Oklahoma Commission on Children and Youth shall:

1. ~~Adopt~~ Promulgate rules providing for:

- a. the training and continuing training requirements for the certification of allopathic and osteopathic physicians, physicians' assistants, and registered nurses, in a manner consistent with their existing scopes of practice, as certified Child Abuse Examiners and for the renewal, nonrenewal, suspension and revocation of such certification. Rules promulgated pursuant to the provisions of this subparagraph shall be provided to the chair of the Senate Human Resources Committee and the chair of the House Public Health Committee prior to the beginning of the 1st Session of the 50th Legislature and shall not take effect prior to May 1, 2005,
- b. the duties and responsibilities of certified Child Abuse Examiners, and
- c. uniform standards for medical examinations and evaluations of children suspected to be victims of child abuse or neglect and uniform forms for written reports of such examinations and evaluations;

2. Distribute an initial listing, and revised listings as often as necessary, of certified Child Abuse Examiners to:

- a. each county office of the Department of Human Services,
- b. each local county or city-county health department. Where there is no local health department, the listing shall be sent to the local county board of health,
- c. each district attorney, and

- d. other persons as necessary and advisable, upon the recommendation of the Board of Child Abuse Examiners;  
and

3. With funds appropriated or otherwise available for such purpose, provide by contract for:

- a. the services of a physician to serve as Chief Child Abuse Examiner, and
- b. the establishment and implementation of a training program and continuing training program for the certification of physicians as Child Abuse Examiners and for consultation services to physicians in matters relating to child abuse and neglect through contracts with the medical schools of the University of Oklahoma and Oklahoma State University.

B. The Board of Child Abuse Examination shall:

1. Prepare the rules, standards and forms required by subsection A of this section, and amendments to ~~said~~ the rules, standards and forms as necessary, for the approval of the Commission;

2. In cooperation with the medical schools of the University of Oklahoma and Oklahoma State University, develop and maintain training programs and consultation services for physicians and certified Child Abuse Examiners;

3. In consultation and cooperation with the Department of Human Services, develop a uniform system of reimbursement for medical examinations and evaluations of cases of suspected child abuse or neglect which are compensable pursuant to Title XIX of the federal Social Security Act for adoption by the Department of Human Services;

4. Develop and maintain an accurate listing of certified Child Abuse Examiners for distribution by the Commission; and

5. Engage in such other activities as necessary and appropriate for the establishment and maintenance of a statewide system of expert medical examination and evaluation of children suspected to be victims of child abuse and neglect, subject to the approval and authorization of the Commission.

C. The Chief Child Abuse Examiner shall be a physician with experience in the area of child abuse and neglect and, as requested or directed by the Board, shall:

1. Provide consultant services to the Board as necessary for the preparation of the rules, standards and forms required by subsection A of this section;

2. Assist the Board and the medical schools of the University of Oklahoma and Oklahoma State University, with the development, implementation, maintenance and coordination of the training programs required by this section;

3. Prepare written reports for the Board and the Commission regarding progress of the system established by this act; and

4. As requested by the Board, perform other duties as necessary to assist the Board in the performance of its duties and responsibilities.

SECTION 6. AMENDATORY 10 O.S. 2001, Section 1150.2, is amended to read as follows:

Section 1150.2 A. There is hereby re-created until July 1, 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;

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~~ local teams established ~~pursuant to Section 7110 of this title by the Child Death Review Board~~ 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~~ local 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

1. 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.

SECTION 7. AMENDATORY 10 O.S. 2001, Section 1150.3, is amended to read as follows:

Section 1150.3 A. The Child Death Review Board shall be composed of ~~twenty-seven (27)~~ twenty-eight (28) members, or their designees, as follows:

1. ~~Fourteen~~ Fifteen of the members shall be:

- a. the Chief Medical Examiner,
- b. the Director of the Department of Human Services~~—~~  
The, or a designee, provided 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~~ Chief of Maternal and ~~Infant~~  
Child 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,~~
- ~~m.~~ the State Epidemiologist of the State Department of Health, ~~and~~

- ~~n.~~ m. the Director of the Oklahoma State Bureau of Investigation, and
- n. the Chief Executive Officer of the Oklahoma Health Care Authority; 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 Oklahoma Indian Affairs Commission,
- 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 8. 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.