ENROLLED HOUSE
BILL NO. 1277

By: Peters, McCarter, Nance, Winchester and Wesselhoft of the House

and

Riley of the Senate

An Act relating to domestic abuse; amending 10 O.S. 2001, Section 7104, which relates to report of criminally inflicted injuries; modifying reporting procedures; amending 10 O.S. 2001, Section 7307-1.4, which relates to inspection and disclosure of juvenile court records; modifying list of persons authorized to inspect juvenile court records; establishing reporting standards for health care professionals; requiring report of domestic abuse under certain circumstances; directing to whom report shall be made; requiring documentation of injuries and treatment; requiring referral to domestic abuse and victim services programs; requiring certain documents be provided to law enforcement upon request; establishing immunity for health care professionals from civil and criminal liability; providing immunity from liability under certain circumstances; providing for presumption of good faith; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 10 O.S. 2001, Section 7104, is amended to read as follows:

Section 7104. Any physician, surgeon, ~~osteopathic physician,~~ resident, intern, physician's assistant, registered nurse, or any other health care professional examining, attending, or treating the victim of what appears to be criminally injurious conduct, including, but not limited to, child physical or sexual abuse, as defined by the Oklahoma Crime Victims Compensation Act, shall report orally or by telephone the matter promptly to the nearest law enforcement agency in the county wherein the criminally injurious conduct occurred, or if the location where the conduct occurred is unknown, the report shall be made to the law enforcement agency nearest to the location where the injury is treated.

<u>However, criminally injurious conduct which appears to be or is reported by the victim to be domestic abuse, as defined in Section 60.1 of Title 22 of the Oklahoma Statutes, domestic abuse by strangulation, domestic abuse resulting in great bodily harm, or domestic abuse in the presence of a minor child, as defined in</u>

Section 644 of Title 21 of the Oklahoma Statutes, shall be reported according to the standards for reporting as set forth in the Domestic Abuse Reporting Act and Sections 3 and 4 of this act.

SECTION 2. AMENDATORY 10 O.S. 2001, Section 7307-1.4, is amended to read as follows:

Section 7307-1.4 A. Juvenile court records which are confidential may be inspected, and their contents shall be disclosed, without a court order to the following persons upon showing of proper credentials and pursuant to lawful duties:

1. The judge having the child currently before the court in any proceeding pursuant to the Oklahoma Juvenile Code, or any judge of the district court or tribal court to which such proceedings may be transferred;

2. Employees and officers of the court in the performance of their duties, including but not limited to guardians ad litem appointed by the court;

3. Members of review boards established pursuant to Sections 1116.2 and 1116.6 of this title. In addition to juvenile court records, any member of such review boards may inspect, without a court order, information including but not ~~be~~ limited to:

a. psychological and medical records,

b. placement history and information, including the names and addresses of foster parents,

c. family assessments,

d. treatment or service plans, and

e. school records;

4. A district attorney and the employees of an office of a district attorney in the course of their official duties;

5. The attorney representing a child who is the subject of a juvenile proceeding pursuant to the provisions of this chapter. The attorney representing a child or considering representing a child in a juvenile proceeding may also access other records listed in subsection A of Section 7307-1.2 of this title for use in the legal representation of the child;

6. Employees of juvenile bureaus in the course of their official duties;

7. Employees of the Department of Juvenile Justice in the course of their official duties;

8. Employees of a law enforcement agency in the course of their official duties pertaining to the investigation of a crime committed or alleged to have been committed by a person under eighteen (18) years of age. Records or information disclosed pursuant to this paragraph may consist of summaries or may be limited to the information or records necessary for the purpose of the investigation;

9. The Oklahoma Commission on Children and Youth;

10. The Department of Juvenile Justice or other public or private agency or any individual having court-ordered custody or custody pursuant to Department of Juvenile Justice placement of the child who is the subject of the record;

11. The Department of Human Services;

12. The child who is the subject of the record and the parents, legal guardian, legal custodian or foster parent of said child;

13. Any federally recognized Indian tribe in which the child who is the subject of the record is a member, or is eligible to become a member of the tribe due to the child being the biological child of a member of an Indian tribe pursuant to the Federal Indian Child Welfare Act, P.L. 95-608, and the Oklahoma Indian Child Welfare Act; provided such Indian tribe member, in the course of official duties:

a. is investigating a report of known or suspected child abuse or neglect or crimes against children or for the purpose of determining whether to place a child in protective custody, or

b. is providing services to or for the benefit of a child including but not limited to protective, emergency, social and medical services;

14. Any federally recognized Indian tribe in which the tribe, the tribal court or the tribal child welfare program has asserted jurisdiction or intervened in any case in which the child is the subject of the proceedings or is a party to the proceedings pursuant to the authority provided in the Oklahoma Indian Child Welfare Act.

The records that are to be provided to Indian tribes pursuant to the provisions of this subsection shall include all case records, reports and documents as defined in this chapter;

15. The Governor or to any person the Governor designates, in writing;

16. Any federal official of the United States Department of Health and Human Services;

17. Any member of the Legislature, upon the written approval of the Speaker of the House of Representatives or the President Pro Tempore of the Senate;

18. Employees of the Department of Corrections in the course of their official duties; ~~and~~

19. Employees of the United States Probation Office, in the course of their official duties; and

20. Domestic violence and sexual assault advocates employed by a certified domestic violence or sexual assault program pursuant to Section 3-313 of Title 43A of the Oklahoma Statutes, working within

a law enforcement agency or court in the course of their assigned duties.

B. Records and their contents disclosed without an order of the court as provided by the provisions of this section shall remain confidential. The use of any information shall be limited to the purposes for which disclosure is authorized. It shall be unlawful for any person to furnish any confidential record or disclose any confidential information contained in any juvenile record for commercial, political or any other unauthorized purpose. Any person violating the provisions of this section shall, upon conviction, be guilty of a misdemeanor.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 58 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. Criminally injurious conduct, as defined by the Oklahoma Crime Victims Compensation Act, which appears to be or is reported by the victim to be domestic abuse, as defined in Section 60.1 of Title 22 of the Oklahoma Statutes, or domestic abuse by strangulation, domestic abuse resulting in great bodily harm, or domestic abuse in the presence of a child, as defined in Section 644 of Title 21 of the Oklahoma Statutes, shall be reported according to the standards for reporting as set forth in subsection B of this section.

B. Except as provided for in Section 7104 of Title 10 of the Oklahoma Statutes, any physician, surgeon, resident, intern, physician's assistant, registered nurse, or any other health care professional examining, attending, or treating the victim of what appears to be domestic abuse or is reported by the victim to be domestic abuse, as defined in Section 60.1 of Title 22 of the Oklahoma Statutes, or domestic abuse by strangulation, domestic abuse resulting in great bodily harm, or domestic abuse in the presence of a child, as defined in Section 644 of Title 21 of the Oklahoma Statutes, shall not be required to report any incident of what appears to be or is reported to be domestic abuse, domestic abuse by strangulation, domestic abuse resulting in great bodily harm, or domestic abuse in the presence of a child if:

1. Committed upon the person of an adult who is over the age of eighteen (18) years; and

2. The person is not an incapacitated adult.

C. Any physician, surgeon, resident, intern, physician's assistant, registered nurse, or any other health care professional examining, attending, or treating a victim shall be required to report any incident of what appears to be or is reported to be domestic abuse, domestic abuse by strangulation, domestic abuse resulting in great bodily harm, or domestic abuse in the presence of a child, if requested to do so either orally or in writing by the victim. A report of any incident shall be promptly made orally or by telephone to the nearest law enforcement agency in the county wherein the domestic abuse occurred or, if the location where the conduct occurred is unknown, the report shall be made to the law enforcement agency nearest to the location where the injury is treated.

D. In all cases of what appears to be or is reported to be domestic abuse, the physician, surgeon, resident, intern, physician's assistant, registered nurse, or any other health care professional examining, attending, or treating the victim of what appears to be domestic abuse shall clearly and legibly document the incident and injuries observed and reported, as well as any treatment provided or prescribed.

E. In all cases of what appears to be or is reported to be domestic abuse, the physician, surgeon, resident, intern, physician's assistant, registered nurse, or any other health care professional examining, attending or treating the victim of what appears to be domestic abuse shall refer the victim to domestic violence and victim services programs, including providing the victim with the twenty-four-hour statewide telephone communication service established by Section 3-314 of Title 43A of the Oklahoma Statutes.

F. Every physician, surgeon, resident, intern, physician's assistant, registered nurse, or any other health care professional making a report of domestic abuse pursuant to this section or examining a victim of domestic abuse to determine the likelihood of domestic abuse, and every hospital or related institution in which the victim of domestic abuse was examined or treated shall, upon the request of a law enforcement officer conducting a criminal investigation into the case, provide copies of the results of the examination or copies of the examination on which the report was based, and any other clinical notes, x-rays, photographs, and other previous or current records relevant to the case to the investigating law enforcement officer.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 59 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. Any physician, surgeon, resident, intern, physician's assistant, registered nurse, or any other health care professional examining, attending, or treating the victim of what appears to be domestic abuse or is reported by the victim to be domestic abuse, participating in good faith and exercising due care in the making of a report pursuant to the provisions of the Domestic Abuse Reporting Act shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any participant shall have the same immunity with respect to participation in any judicial proceeding resulting from the report.

B. No physician, surgeon, resident, intern, physician's assistant, registered nurse, or any other health care professional examining, attending, or treating any victim who is over the age of eighteen (18) years and is not an incapacitated adult of what appears to be domestic abuse or is reported by the victim to be domestic abuse, shall not be required to make a report of the criminally injurious conduct unless requested by the victim to do so and shall have immunity from liability, civil or criminal, that might otherwise be incurred or imposed for not making the report. Any participant shall have the same immunity with respect to participation in any judicial proceeding resulting from the report.

C. For purposes of any proceeding, civil or criminal, the good faith of any physician, surgeon, intern, physician's assistant,

registered nurse, or any other health care professional in making a report pursuant to the provisions of Section 3 of this act shall be presumed.

SECTION 5. This act shall become effective November 1, 2005.

Passed the House of Representatives the 2nd day of March, 2005.

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Presiding Officer of the House of Representatives

Passed the Senate the 11th day of April, 2005.

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Presiding Officer of the Senate