

1 THE STATE SENATE
2 Monday, April 4, 2005

3 ENGROSSED

4 House Bill No. 1277

5 ENGROSSED HOUSE BILL NO. 1277 - By: PETERS, McCARTER, NANCE,
6 WINCHESTER and WESSELHOFT of the House and RILEY of the Senate.

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

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

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

27 Section 7104. Any physician, surgeon, ~~osteopathic physician,~~
28 resident, intern, physician's assistant, registered nurse, or any
29 other health care professional examining, attending, or treating the
30 victim of what appears to be criminally injurious conduct,
31 including, but not limited to, child physical or sexual abuse, as
32 defined by the Oklahoma Crime Victims Compensation Act, shall report

1 orally or by telephone the matter promptly to the nearest law
2 enforcement agency in the county wherein the criminally injurious
3 conduct occurred, or if the location where the conduct occurred is
4 unknown, the report shall be made to the law enforcement agency
5 nearest to the location where the injury is treated.

6 However, criminally injurious conduct which appears to be or is
7 reported by the victim to be domestic abuse, as defined in Section
8 60.1 of Title 22 of the Oklahoma Statutes, domestic abuse by
9 strangulation, domestic abuse resulting in great bodily harm, or
10 domestic abuse in the presence of a minor child, as defined in
11 Section 644 of Title 21 of the Oklahoma Statutes, shall be reported
12 according to the standards for reporting as set forth in the
13 Domestic Abuse Reporting Act and Sections 3 and 4 of this act.

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

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

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

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

4 3. Members of review boards established pursuant to Sections
5 1116.2 and 1116.6 of this title. In addition to juvenile court
6 records, any member of such review boards may inspect, without a
7 court order, information including but not ~~be~~ limited to:

8 a. psychological and medical records,

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

11 c. family assessments,

12 d. treatment or service plans, and

13 e. school records;

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

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

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

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

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

10 9. The Oklahoma Commission on Children and Youth;

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

15 11. The Department of Human Services;

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

18 13. Any federally recognized Indian tribe in which the child
19 who is the subject of the record is a member, or is eligible to
20 become a member of the tribe due to the child being the biological
21 child of a member of an Indian tribe pursuant to the Federal Indian
22 Child Welfare Act, P.L. 95-608, and the Oklahoma Indian Child

1 Welfare Act; provided such Indian tribe member, in the course of
2 official duties:

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

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

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

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

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

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

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

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

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

8 20. Domestic violence and sexual assault advocates employed by
9 a certified domestic violence or sexual assault program pursuant to
10 Section 3-313 of Title 43A of the Oklahoma Statutes, working within
11 a law enforcement agency or court in the course of their assigned
12 duties.

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

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

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

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

1 abuse by strangulation, domestic abuse resulting in great bodily
2 harm, or domestic abuse in the presence of a child if:

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

5 2. The person is not an incapacitated adult.

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

19 D. In all cases of what appears to be or is reported to be
20 domestic abuse, the physician, surgeon, resident, intern,
21 physician's assistant, registered nurse, or any other health care
22 professional examining, attending, or treating the victim of what
23 appears to be domestic abuse shall clearly and legibly document the

1 incident and injuries observed and reported, as well as any
2 treatment provided or prescribed.

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

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

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

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

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

1 Any participant shall have the same immunity with respect to
2 participation in any judicial proceeding resulting from the report.

3 C. For purposes of any proceeding, civil or criminal, the good
4 faith of any physician, surgeon, intern, physician's assistant,
5 registered nurse, or any other health care professional in making a
6 report pursuant to the provisions of Section 3 of this act shall be
7 presumed.

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

9 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 3-29-05 - DO
10 PASS.