

1 STATE OF OKLAHOMA

2 1st Session of the 51st Legislature (2007)

3 COMMITTEE SUBSTITUTE

4 FOR

HOUSE BILL NO. 1699

By: Morgan

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7 COMMITTEE SUBSTITUTE

8 An Act relating to children; amending 10 O.S. 2001,
9 Section 7003-5.1, which relates to dispositional
10 hearings; providing for access to reports and
11 evidence for certain persons; amending 10 O.S. 2001,
12 Section 7005-1.4, as amended by Section 8, Chapter
205, O.S.L. 2006 (10 O.S. Supp. 2006, Section 7005-
1.4), which relates to records; providing for
disclosure of certain information by certain persons;
and providing an effective date.

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

16 SECTION 1. AMENDATORY 10 O.S. 2001, Section 7003-5.1, is
17 amended to read as follows:

18 Section 7003-5.1 A. After making an order of adjudication for
19 a deprived child, the court shall hold a dispositional hearing, at
20 which all evidence helpful in determining the proper disposition
21 best serving the interest of the deprived child, including but not
22 limited to oral and written reports, may be admitted and may be
23 relied upon to the extent of its probative value, even though not
24 competent for the purposes of the adjudicatory hearing.

1 B. Before making an order of disposition, the court shall
2 advise the district attorney, the parents, guardian, custodian or
3 responsible relative, and their counsel, of the factual contents and
4 the conclusion of reports prepared for the use of the court and
5 considered by it, and afford fair opportunity, if requested, to
6 controvert them. The court shall provide parents, guardians, and
7 legal custodians full and timely access to all reports that are
8 considered by the court in any custody or visitation proceeding.

9 C. An order of disposition shall include a specific finding and
10 order of the court relative to the liability and accountability of
11 the parents for the care and maintenance of the child as authorized
12 by Part 7 of this article, except where custody is placed with both
13 parents.

14 ~~C.~~ D. On its own motion or that of the district attorney, or of
15 the parent, guardian, custodian, responsible relative or counsel,
16 the court may adjourn the hearing for a reasonable period to receive
17 reports or other evidence and, in such event, shall make an
18 appropriate order for temporary custody of the child, or his release
19 from temporary custody subject to supervision by the court, during
20 the period of the continuance.

21 SECTION 2. AMENDATORY 10 O.S. 2001, Section 7005-1.4, as
22 amended by Section 8, Chapter 205, O.S.L. 2006 (10 O.S. Supp. 2006,
23 Section 7005-1.4), is amended to read as follows:

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1 Section 7005-1.4 A. Department of Human Services agency
2 records pertaining to a child may be inspected and their contents
3 disclosed without a court order to the following persons upon
4 showing of proper credentials and pursuant to their lawful duties:

5 1. The court having the child currently before it in any
6 proceeding pursuant to this title, any district court or tribal
7 court to which such proceedings may be transferred, employees and
8 officers of the court in the performance of their duties, including
9 but not limited to guardians ad litem appointed by the court,
10 postadjudicatory review boards, court-appointed special advocates,
11 and members of the Child Death Review Board;

12 2. Any district court which has ordered a home study by the
13 Department in an action for divorce, annulment, custody of a child,
14 or appointment of a legal guardian of a child, or any subsequent
15 proceeding in such actions; provided, however, the Department may
16 limit disclosure in the home study to summaries or to information
17 directly related to the purpose of such disclosure;

18 3. A district attorney, United States Attorney or Attorney
19 General of this or another state and the employees of such offices
20 in the course of their official duties pursuant to this title or the
21 prosecution of crimes against children or upon their request in
22 their official capacity as advisor in a grand jury proceeding;

23 4. The attorney representing a child who is the subject of a
24 proceeding pursuant to the provisions of this title including the

1 attorney representing a child pursuant to the provisions of
2 subsection C of Section 7002-1.2 of this title or representing a
3 child pursuant to the laws relating to child abuse and neglect.
4 Such attorney may also access other records listed in subsection A
5 of Section 7005-1.2 of this title for use in the legal
6 representation of the child;

7 5. Employees of juvenile bureaus in the course of their
8 official duties;

9 6. Employees of a law enforcement agency of this or another
10 state and employees of a child protective service agency of another
11 state or federally recognized Indian tribe in the course of their
12 official duties pertaining to investigations of a report of known or
13 suspected child abuse or neglect or crimes against children or for
14 the purpose of determining whether to place a child in protective
15 custody;

16 7. The Oklahoma Commission on Children and Youth as provided by
17 Sections 601.2 and 601.6 of this title;

18 8. The Office of Juvenile Affairs;

19 9. Persons and agencies authorized by Section 7005-1.7 of this
20 title;

21 10. Members of multidisciplinary teams or multidisciplinary
22 personnel designated by the Department of Human Services,
23 investigating a report of known or suspected child abuse or neglect
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1 or providing services to a child or family which is the subject of
2 the report;

3 11. A physician who has before him or her a child whom the
4 physician reasonably suspects may be abused or neglected or any
5 health care or mental health professionals involved in the
6 evaluation or treatment of the child, the child's parents, legal
7 guardian, foster parent, custodian or other family members;

8 12. Any public or private agency or person authorized by the
9 Department to diagnose, or provide care, treatment, supervision or
10 other services to a child who is the subject of a report or record
11 of child abuse or neglect, provided the Department may limit such
12 disclosure to summaries or to information directly necessary for the
13 purpose of such disclosure;

14 13. Any federally recognized Indian tribe or state or county
15 child protective services or child welfare agency providing for or
16 supervising the diagnosis, care, treatment, supervision or other
17 services provided such child;

18 14. A parent, legal guardian or custodian of the child who is
19 the subject of such records; provided, that records disclosed shall
20 be limited to juvenile court records as defined by Section 7005-1.1
21 of this title. All other agency records pertaining to or related to
22 any alleged or adjudicated abuse or neglect of the child shall not
23 be inspected or disclosed pursuant to this paragraph;

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1 15. Any person or agency for research purposes, if all of the
2 following conditions are met:

3 a. the person or agency conducting such research is
4 employed by the State of Oklahoma or is under contract
5 with this state and is authorized by the Department of
6 Human Services to conduct such research, and

7 b. the person or agency conducting the research ensures
8 that all documents containing identifying information
9 are maintained in secure locations and access to such
10 documents by unauthorized persons is prohibited; that
11 no identifying information is included in documents
12 generated from the research conducted; and that all
13 identifying information is deleted from documents used
14 in the research when the research is completed;

15 16. Persons authorized by and in the manner provided in the
16 Oklahoma Child Abuse Prevention and Reporting Act;

17 17. A foster parent, with regard to records concerning the
18 social, medical, psychological or educational needs of a child
19 currently placed with that foster parent or of a child being
20 considered for placement with that foster parent;

21 18. The Governor or to any person the Governor designates, in
22 writing;

23 19. Any federal official of the United States Department of
24 Health and Human Services;

1 20. The Oklahoma Health Care Authority;

2 21. Any member of the Legislature approved in writing by the
3 Speaker of the House of Representatives or the President Pro Tempore
4 of the Senate;

5 22. Any person or agency authorized to receive any paper,
6 record, book or other information pursuant to the Oklahoma Adoption
7 Code pertaining to a child who is the subject of an adoption
8 proceeding or relatives who are related to such child within the
9 third degree of consanguinity;

10 23. Employees of any state or federal corrections or law
11 enforcement agency in the performance of their official duties
12 concerning presentence investigations or supervision of a parent of
13 an alleged or adjudicated deprived child or the legal guardian,
14 custodian or any other adult member of the child's home who is
15 responsible for the care of the child; and

16 24. An employee of a state agency of this or another state in
17 the performance of such employee's official duties concerning the
18 establishment of paternity or the establishment or enforcement of a
19 child support order or other entitlement for the benefit of a child;
20 provided, the Department shall limit disclosure to information
21 directly related to the purpose of such disclosure.

22 B. In accordance with the rules promulgated for such purpose
23 pursuant to the provisions of Section 620.6 of this title, records
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1 may be inspected and their contents disclosed without a court order
2 to participating agencies.

3 C. Nothing in this section shall be construed as prohibiting
4 the Department from disclosing such confidential information as may
5 be necessary to secure appropriate care, treatment, protection or
6 supervision of a child alleged to be abused or neglected.

7 D. Records and their contents disclosed pursuant to this
8 section shall remain confidential. The use of such information
9 shall be limited to the purposes for which disclosure is authorized.
10 It shall be unlawful and a misdemeanor for any person to furnish any
11 record or disclose any information contained therein for any
12 unauthorized purpose.

13 E. 1. In cases involving the death or near death of a child
14 when a person responsible for the child has been charged by
15 information or indictment with committing a crime resulting in the
16 ~~child's~~ death or near death of the child, there shall be a
17 presumption that the best interest of the public will be served by
18 public disclosure of certain information concerning the
19 circumstances of the investigation of the death or near death of the
20 child and any other investigations within the last three (3) years
21 concerning that child, or other children while living in the same
22 household.

23 2. At any time subsequent to seven (7) days, but no more than
24 thirty (30) days, of the date the person responsible for the child

1 has been criminally charged, the Department of Human Services, the
2 Oklahoma Commission on Children and Youth, ~~or~~ the district attorney
3 ~~may~~, district court clerk, and the judge having jurisdiction over
4 the case shall release ~~the following~~ certain information to the
5 public as follows:

6 a. a confirmation ~~that~~ shall be provided by the
7 Department of Human Services and the Oklahoma
8 Commission on Children and Youth as to whether a
9 report has been made concerning the alleged victim or
10 other children while living in the same household and
11 whether an investigation has begun,

12 b. confirmation shall be provided by the Department of
13 Human Services and the Oklahoma Commission on Children
14 and Youth as to whether previous reports have been
15 made and the dates thereof, a summary of those
16 previous reports, the dates and outcome of any
17 investigations or actions taken by the Department of
18 Human Services and the Oklahoma Commission on Children
19 and Youth in response to any report of child abuse or
20 neglect, and the specific recommendation made to the
21 district attorney by the Department of Human Services
22 and the Oklahoma Commission on Children and Youth, and

23 c. the district attorney shall disclose any actions taken
24 by the office of the district attorney after

1 ~~submission of~~ receiving any investigative report from
2 the Department of Human Services or the Oklahoma
3 Commission on Children and Youth, and

4 ~~e.~~ d. the dates of any judicial proceedings prior to the
5 child's death or near death of the child shall be
6 disclosed by the district court clerk,

7 e. specific recommendations made by the Department of
8 Human Services in any ~~progress~~ reports submitted to
9 the court shall be disclosed by the Department of
10 Human Services, a summary of each participant's

11 f. recommendations ~~made~~ submitted by each participant at
12 the judicial proceedings shall be provided in writing
13 by the judge having jurisdiction over the case
14 including recommendations made at the hearing as they
15 relate to custody or placement of a child, and

16 g. the rulings of the court shall be provided in writing
17 by the judge having jurisdiction over the case.

18 3. Any disclosure of information pursuant to this section shall
19 not identify or provide an identifying description of any
20 complainant or reporter of child abuse or neglect, and shall not
21 identify the name of the ~~child victim's~~ siblings of the child victim
22 or other children living in the same household, the parent or other
23 person responsible for the child or any other member of the
24 household, other than the person criminally charged.

1 F. For purposes of this section, the term "near death" means
2 the child is in serious or critical condition, as certified by a
3 physician, as a result of abuse or neglect.

4 SECTION 3. This act shall become effective November 1, 2007.

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